

that nothing shall be lost. It is the most extraordinary resolution I ever heard of in the Senate of the United States.

Mr. HARRIS. Let both resolutions be printed.

The PRESIDENT *pro tempore*. Both will be printed.

Mr. EDMUNDS. Mr. President, I move that the Senate do now adjourn.

The motion was agreed to; and (at two o'clock and thirty-four minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, December 5, 1881.

This being the day prescribed by the Constitution for the meeting of Congress, the members-elect of the House of Representatives of the Forty-seventh Congress assembled in their Hall and, at twelve o'clock m., were called to order by Hon. GEORGE M. ADAMS, Clerk of the last House of Representatives.

The CLERK. The hour for the meeting of the Forty-seventh Congress having arrived, the Clerk of the preceding House of Representatives will call the roll, which by law he is required to prepare, of the Representatives-elect to the Forty-seventh Congress.

The roll was then called.

The CLERK. The roll-call demonstrates the presence of two hundred and eighty-five members, more than a quorum, and the Clerk is now prepared to receive motions looking to the organization of the House.

Mr. KASSON. I ask to have the name of the member from the third district of Vermont recalled, as we are under the impression the wrong name was read from that district. I will also suggest (and it needs no motion) that the names of the reported absentees be called.

The CLERK. If it be the pleasure of members the Clerk will now call the names of those who failed to respond on the first roll-call.

Mr. KASSON. That will do.

The Clerk again called the name of Roswell Farnham as the Representative-elect from the third district of Vermont.

Mr. KASSON. I wish to ascertain whether that does not involve a mistake of name. I understand the name of the member-elect from the third district of Vermont is William W. Grout, and, recognizing the fact that the wrong name has been called, I wish to direct the attention of the Clerk to it so we may ascertain whether it is not an error.

The CLERK. Being apprised by the gentleman from Iowa there is possibility of mistake in the name, the Clerk has sent for the certificate in order if there be mistake it may be corrected.

Mr. KASSON. I understand by error the name of the governor who signed the certificate is put on the roll instead of the person who was certified to as the Representative-elect.

Mr. JOYCE. The name of the Representative-elect from the third district, William W. Grout, is upon the printed roll-call, and I ask his name be called.

The CLERK. The Clerk will state that William W. Grout, whose name he will now call, is the Representative-elect from the third district. A mistake has been made in copying the name of the governor from the certificate instead of Mr. Grout's name. The printed roll-call before the Clerk is correct.

Mr. GROUT's name was called, and he responded "present."

The roll-call showed the presence of the following members:

ALABAMA.

Thomas H. Herndon.
Hilary A. Herbert.
William C. Oates.
Charles M. Shelley.

Thomas Williams.
Goldsmith W. Hewitt.
William H. Forney.
Joseph Wheeler.

ARKANSAS.

Poindexter Dunn.
James K. Jones.

Jordan E. Cravens.
Thomas M. Gunter.

CALIFORNIA.

William S. Rosecrans.
Horace F. Page.

Campbell P. Berry.
Romualdo Pacheco.

COLORADO.

James B. Belford.

CONNECTICUT.

John R. Buck.
James Phelps.

John T. Wait.
Frederick Miles.

DELAWARE.

Edward L. Martin.

FLORIDA.

Robert H. M. Davidson.

Jesse J. Finley.

GEORGIA.

George R. Black.
Henry G. Turner.
Philip Cook.
Hugh Buchanan.
Nathaniel J. Hammond.

James H. Blount.
Judson C. Clements.
Alexander H. Stephens.
Emory Speer.

ILLINOIS.

William Aldrich.
George R. Davis.
Charles B. Farwell.
John C. Sherwin.
Robert M. A. Hawk.
Thomas J. Henderson.
William Cullen.
Lewis E. Payson.
John H. Lewis.
Benjamin F. Marsh.

James W. Singleton.
William M. Springer.
Dietrich C. Smith.
Joseph G. Cannon.
Samuel W. Moulton.
William A. J. Sparks.
William R. Morrison.
John R. Thomas.
Richard W. Townshend.

INDIANA.

William Heilman.
Thomas R. Cobb.
Strother M. Stockslager.
William S. Holman.
Courtland C. Matson.
Thomas M. Browne.
Stanton J. Peelle.

Robert B. F. Pierce.
Godlove S. Orth.
Mark L. De Motte.
George W. Steele.
Walpole G. Colerick.
William H. Calkins.

IOWA.

Moses A. McCoid.
Sewell S. Farwell.
Thomas Updegraff.
Nathaniel C. Deering.
William G. Thompson.

Madison E. Cutts.
John A. Kasson.
William P. Hepburn.
Cyrus C. Carpenter.

KANSAS.

Thomas Ryan.

KENTUCKY.

Oscar Turner.
James A. McKenzie.
John W. Caldwell.
J. Proctor Knott.
Albert S. Willis.

John G. Carlisle.
Joseph C. S. Blackburn.
Philip B. Thompson, jr.
John D. White.
Elijah C. Phister.

LOUISIANA.

Randall L. Gibson.
E. John Ellis.
Chester B. Darrell.

Newton C. Blanchard.
J. Floyd King.
Edward W. Robertson.

MAINE.

Thomas B. Reed.
Nelson Dingley, jr.
Stephen D. Lindsey.

George W. Ladd.
Thompson H. Murch.

MARYLAND.

George W. Covington.
J. Frederick C. Talbott.
Felter S. Hoblitzell.

Robert M. McLane.
Andrew G. Chapman.
Milton G. Urner.

MASSACHUSETTS.

William W. Crapo.
Benjamin W. Harris.
Ambrose A. Ranney.
Selwyn Z. Bowman.
Eben F. Stone.

William A. Russell.
John W. Candler.
William W. Rice.
Amasa Norcross.
George D. Robinson.

MICHIGAN.

Henry W. Lord.
Edwin Willits.
Edward S. Lacey.
Julius C. Burrows.
George W. Webber.

Oliver L. Spaulding.
John T. Rich.
Roswell G. Horr.
Jay A. Hubbell.

MINNESOTA.

Mark H. Dunnell.
Horace B. Strait.

William D. Washburn.

MISSISSIPPI.

Henry L. Muldrow.
Van H. Manning.
Henry D. Money.

Otho R. Singleton.
Charles E. Hooker.
James R. Chalmers.

MISSOURI.

Martin L. Clardy.
Thomas Allen.
R. Graham Frost.
Lowndes H. Davis.
Richard P. Bland.
Ira S. Haseltine.
Theron M. Rice.

Robert T. Van Horn.
Nicholas Ford.
Joseph H. Burrows.
John B. Clark, jr.
William H. Hatch.
Aylett H. Buckner.

NEBRASKA.

Edward K. Valentine.

NEVADA.

George W. Cassidy.

NEW HAMPSHIRE.

Ossian Ray.

NEW JERSEY.

George M. Robeson.
John Hart Brewer.
Miles Ross.
Henry S. Harris.

John Hill.
Phineas Jones.
Augustus A. Hardenbergh.

NEW YORK.

Perry Belmont.
William E. Robinson.
J. Hyatt Smith.
Archibald M. Bliss.
Benjamin Wood.
Samuel S. Cox.
Philip H. Dugro.
Anson G. McCook.
John Hardy.
Abram S. Hewitt.
Roswell P. Flower.
Waldo Hutchins.
John H. Ketcham.
Lewis Beach.
Thomas Cornell.
Michael N. Nolan.
Walter A. Wood.

John Hammond.
Abram X. Parker.
George West.
Ferris Jacobs, jr.
Charles R. Skinner.
Cyrus D. Prescott.
Joseph Mason.
Frank Hiscock.
John H. Camp.
James W. Wadsworth.
Jeremiah W. Dwight.
David F. Richardson.
John Van Voorhis.
Richard Crowley.
Jonathan Scoville.
Henry Van Aernam.

NORTH CAROLINA.

Louis C. Latham.
Orlando Hubbs.
John W. Shackelford.
William R. Cox.

Clement Dowd.
Robert F. Armfield.
Robert B. Vance.

OHIO.

Benjamin Butterworth.
Thomas L. Young.
Henry L. Morey.
Emanuel Shultz.
Benjamin Le Fevre.
James M. Ritchie.
John P. Leedom.
J. Warren Keifer.
James S. Robinson.
John B. Rice.

Henry S. Neal.
George L. Converse.
Gibson Atherton.
George W. Geddes.
Rufus R. Dawes.
Jonathan T. Updegraff.
William McKinley, jr.
Addison S. McClure.
Ezra B. Taylor.
Amos Townsend.

OREGON.

M. C. George.

PENNSYLVANIA.

Henry H. Bingham.
Charles O'Neill.
Samuel J. Randall.
William D. Kelley.
Alfred C. Harmer.
William Ward.
William Godshalk.
Daniel Ermentrout.
A. Herr Smith.
William Mutchler.
Robert Klotz.
Joseph A. Scranton.
Charles N. Brumm.
Samuel F. Barr.

Cornelius C. Jadwin.
Robert J. C. Walker.
Jacob M. Campbell.
Horatio G. Fisher.
Frank E. Beltzhoover.
Andrew G. Curtin.
Morgan R. Wise.
Russell Errett.
Thomas M. Bayne.
William S. Shallenberger.
James Mosgrove.
Samuel H. Miller.
Lewis F. Watson.

RHODE ISLAND.

Henry J. Spooner.

Jonathan Chace.

SOUTH CAROLINA.

John S. Richardson.
Samuel Dibble.
D. Wyatt Aiken.

John H. Evins.
George D. Tillman.

TENNESSEE.

A. H. Pettibone.
Leonidas C. Honk.
George G. Dibrell.
Benton McMillin.
Richard Warner.

John F. House.
Washington C. Whitthorne.
John D. C. Atkins.
Charles B. Simonton.
William R. Moore.

TEXAS.

John H. Reagan.
David B. Culbertson.
Olin Wellborn.

George W. Jones.
Columbus Upson.

VERMONT.

Charles H. Joyce.
James M. Tyler.

William W. Grout.

VIRGINIA.

George T. Garrison.
John F. Dezenodorf.
George D. Wise.
Joseph Jorgensen.
George C. Cabell.

John Randolph Tucker.
John Paul.
John S. Barbour.
Abram Fulkerson.

WEST VIRGINIA.

Benjamin Wilson.
John Blair Hoge.

John E. Kenna.

WISCONSIN.

Charles G. Williams.
Lucien B. Caswell.
George C. Hazelton.
Edward S. Bragg.

Richard Guenther.
Herman L. Humphrey.
Thaddeus C. Pound.

The CLERK. Two hundred and eighty-nine members have responded to the roll-call, and the Clerk is ready to receive motions looking to the organization of the House.

[The names of the absentees are Mr. MORSE of Massachusetts, Mr. SCALES of North Carolina, Mr. MILLS of Texas, and Mr. DEUSTER of Wisconsin.]

ELECTION OF SPEAKER.

Mr. ROBESON. Mr. Clerk, I move that we now proceed to the organization of this House by the election of a Speaker, and I nominate for that office—

The CLERK. If the gentleman from New Jersey will allow the Clerk to suggest, he will first put before the House the motion to proceed to the election of Speaker, after which nominations will be in order.

Mr. ROBESON. I understand the law to be that we shall proceed in the order which I have stated.

The CLERK. The Clerk will submit the motion first to proceed to the election of Speaker.

The motion was agreed to.

Mr. ROBESON. I now nominate for the office of Speaker of this House of Representatives Hon. JOSEPH WARREN KEIFER, a Representative-elect from the State of Ohio.

Mr. HOUSE. I nominate for Speaker of this House Hon. SAMUEL J. RANDALL, Representative-elect from the State of Pennsylvania.

Mr. MURCH. I desire to place in nomination for Speaker of the House of Representatives of the Forty-seventh Congress Hon. NICHOLAS FORD, of Missouri, a member-elect to this Congress.

The CLERK. Are there any other nominations? There being no further nominations presented, the Clerk will ask Mr. BURROWS of Michigan, Mr. HOLMAN of Indiana, Mr. MCCOOK of New York, and Mr. LADD of Maine to act as tellers.

The tellers took their places at the Clerk's desk.

The CLERK. The rule of the House provides that the votes shall

be viva voce. The roll will be called and members will respond to their names by announcing their choice for Speaker.

The Clerk proceeded to call the roll.

Mr. ROBESON. I would like to ask how the name of Mr. GEORGE C. HAZELTON, of Wisconsin, is recorded?

The CLERK. The tellers report to the Clerk that the name is recorded for Mr. FORD, of Missouri. [Laughter and applause.]

Mr. HAZELTON. Mr. Clerk, that is a little thin, [laughter,] inasmuch as the name of GEORGE C. HAZELTON was not called and could not have been responded to. There are two names on the roll substantially the same in sound, my name and that of Mr. HASELTINE from Missouri, and doubtless Mr. HASELTINE has inadvertently answered for me. The names sound alike, and inasmuch as the given names were not called in either case there is reasonable ground for supposing that the mistake has arisen in that way. I have a great deal of respect for Mr. FORD, but I could not vote for him for Speaker. [Laughter and applause.] Therefore I ask that the roll be corrected and that my name be recorded for Mr. KEIFER, as I voted.

The CLERK. The Clerk begs to state that there is such similarity in the sound of the two names that it is entirely reasonable to suppose that they may have been confounded in entering the responses to the roll-call by the tellers as well as by the reading clerk. The correction will be made as the gentleman desires. The names of such Representatives as failed to vote on the first roll-call will again be called by the Clerk.

The call of the roll was resumed and concluded, with the following result:

For Mr. J. Warren Keifer, of Ohio—148.

Aldrich,	Farwell, Sewell S.	Mason,	Shallenberger,
Anderson,	Fisher,	McClure,	Sherwin,
Barr,	Fulkerson,	McCoid,	Shultz,
Bayne,	George,	McCook,	Skinner,
Belford,	Godshalk,	McKinley,	Smith, A. Herr
Bingham,	Grout,	Miles,	Smith, Dietrich C.
Bowman,	Guenther,	Miller,	Smith, J. Hyatt
Brewer,	Hall,	Moore,	Spaulding,
Briggs,	Hammond, John	Morey,	Spooner,
Browne,	Harmer,	Neal,	Steele,
Buck,	Harris, Benj. W.	Norcross,	Stone,
Burrows, Julius C.	Haskell,	O'Neill,	Strait,
Butterworth,	Hawk,	Orth,	Taylor,
Calkins,	Hazelton,	Pacheco,	Thomas,
Camp,	Heilman,	Page,	Thompson, Wm. G.
Campbell,	Henderson,	Parker,	Townsend, Amos
Candler,	Hepburn,	Paul,	Tyler,
Cannon,	Hill,	Payson,	Updegraff, J. T.
Carpenter,	Hiscock,	Peele,	Updegraff, Thomas
Caswell,	Horr,	Pierce,	Uner,
Chace,	Houk,	Pettibone,	Valentine,
Cornell,	Hubbell,	Pound,	Van Aernam,
Crapo,	Hubbs,	Prescott,	Van Horn,
Crowley,	Humphrey,	Ranney,	Van Voorhis,
Culken,	Jacobs,	Ray,	Wadsworth,
Cutts,	Jadwin,	Reed,	Wait,
Darrell,	Jones, Phineas	Rice, John B.	Walker,
Davis, George R.	Jorgensen,	Rice, William W.	Ward,
Dawes,	Joyce,	Rich,	Washburn,
Deering,	Kasson,	Richardson, D. P.	Watson,
De Motte,	Kelley,	Ritchie,	Webber,
Dezenodorf,	Ketcham,	Robeson,	West,
Dingley,	Lacey,	Robinson, Geo. D.	White,
Dunnell,	Lewis,	Robinson, James S.	Williams, Chas. G.
Dwight,	Lindsey,	Russell,	Willits,
Errett,	Lord,	Ryan,	Wood, Walter A.
Farwell, Chas. B.	Marsh,	Scranton,	Young.

For Mr. Samuel J. Randall, of Pennsylvania—129.

Aiken,	Cox, William R.	Hoge,	Ross,
Allen,	Covington,	Holman,	Scoville,
Armfield,	Cravens,	Hooker,	Shackelford,
Atherton,	Culbertson,	House,	Shelley,
Atkins,	Curtin,	Hutchins,	Simonton,
Barbour,	Davidson,	Jones, James K.	Singleton, Jas. W.
Beach,	Davis, Lowndes H.	Kenna,	Singleton, Otho R.
Belmont,	Dibble,	King,	Sparks,
Beltzhoover,	Dibrell,	Klotz,	Speer,
Berry,	Dowd,	Knott,	Springer,
Black,	Dugro,	Latham,	Stephens,
Blackburn,	Dunn,	Leedom,	Stockslager,
Blanchard,	Ellis,	Le Fevre,	Talbot,
Bland,	Ermentrout,	Manning,	Thompson, P. D.
Bliss,	Evins,	Martin,	Tillman,
Blount,	Finley,	Matson,	Townsend, R. W.
Bragg,	Flower,	McKenzie,	Tucker,
Buchanan,	Forney,	McLane,	Turner, Henry G.
Buckner,	Frost,	McMillin,	Turner, Oscar
Cabell,	Garrison,	Money,	Upson,
Caldwell,	Geddes,	Morrison,	Vance,
Carlisle,	Gibson,	Moulton,	Warner,
Cassidy,	Gunter,	Muldrow,	Wellborn,
Chalmers,	Hammond, N. J.	Mutchler,	Wheeler,
Chapman,	Hardenberg,	Nolan,	Whitthorne,
Clardy,	Hardy,	Oates,	Williams, Thomas
Clark,	Harris, Henry S.	Phelps,	Willis,
Clements,	Hatch,	Phister,	Wilson,
Cobb,	Herbert,	Reagan,	Wise, George D.
Colerick,	Herndon,	Richardson, Jno. S.	Wise, Morgan R.
Converse,	Hewitt, Abram S.	Robertson,	
Cook,	Hewitt, G. W.	Robinson, Wm. E.	
Cox, Samuel S.	Hoblitzell,	Rosecrans,	

For Mr. Nicholas Ford, of Missouri—8.

Brumm,	Haseltine,	Ladd,	Murch,
Burrows, Jos. H.	Jones, George W.	Mosgrove,	Rice, Theron M.
Deuster,	Keifer,		Scates,
Ford,	Mills,		Wood, Benjamin.

Not voting—8.

Mr. ROBESON. I suppose that in accordance with the law and custom upon this subject the names will be read over, so that gentlemen may know how they are recorded.

The CLERK. The Clerk will verify the roll by announcing the votes of the Representatives as cast by them, in order that the possibility of any mistake may be avoided in regard to the manner in which they are recorded in the election for Speaker.

The names of those voting for the various candidates for Speaker were then announced from the Clerk's desk.

Mr. BURROWS, of Michigan. Mr. Clerk, in behalf of the tellers appointed to canvass the vote for Speaker, I am directed to report that the whole number of votes cast was 285; necessary to a choice, 143; of which Hon. J. WARREN KEIFER received 148, Hon. SAMUEL J. RANDALL 129, and Hon. NICHOLAS FORD 8.

The CLERK. The gentleman from Michigan, [Mr. BURROWS,] on behalf of the tellers, reports that after canvassing the votes for Speaker the result is as follows: Whole number of votes cast, 285; necessary to a choice, 143; of which Hon. J. WARREN KEIFER, of Ohio, has received 148 votes; Hon. SAMUEL J. RANDALL, of Pennsylvania, 129 votes; and Hon. NICHOLAS FORD, of Missouri, 8 votes. Hon. J. WARREN KEIFER, of Ohio, having received a majority of all the votes cast for Speaker, is duly elected Speaker of the House of Representatives of the Forty-seventh Congress; and the Clerk requests Mr. RANDALL, of Pennsylvania, and Mr. HISCOCK, of New York, to escort the Speaker-elect to the chair. The Clerk will also request Mr. KELLEY, of Pennsylvania, the senior Representative upon the floor, to come forward and administer the oath of office to the Speaker-elect.

Mr. RANDALL and Mr. HISCOCK conducted Mr. KEIFER to the chair, when the Speaker-elect addressed the House as follows:

Gentlemen of the House of Representatives:

I thank you with a heart filled with gratitude for the distinguished honor conferred on me by an election as your Speaker. I will assume the powers and duties of this high office with, I trust, a due share of diffidence and distrust of my own ability to meet them acceptably to you and the country. I believe that you, as a body and individually, will give me hearty support in the discharge of all my duties. I promise to devote myself faithfully and assiduously to the work before me. I invoke your and the country's charitable judgment upon all my official acts. I will strive to be just to all, regardless of party or section. Where party principle is involved, I will be found to be a Republican, but in all other respects I hope to be able to act free from party bias.

It is a singular fact that at this most prosperous time in our nation's history no party in either branch of Congress has an absolute majority over all other parties, and it is therefore peculiarly fortunate that at no other time since and for many years prior to the accession of Abraham Lincoln to the executive chair has there been so few unsettled vital questions of a national character in relation to which party lines have been closely drawn.

The material prosperity of the people is in advance of any other period in the history of our Government. The violence of party spirit has materially subsided, and in great measure because many of the reasons for its existence are gone.

While the universal tendency of the people is to sustain and continue to build up an unparalleled prosperity, it should be our highest aim to so legislate as to permanently promote and not cripple it. This Congress should be, and I profoundly hope it will be, marked peculiarly as a business Congress.

It may be true that additional laws are yet necessary to give to every citizen complete protection in the exercise of all political rights. With evenly balanced party power, with few grounds for party strife and bitterness, and with no impending Presidential election to distract us from purely legislative duties, I venture to suggest that the present is an auspicious time to enact laws to guard against the recurrence of dangers to our institutions and to insure tranquillity at perilous times in the future.

Again thanking you for the honor conferred, and again invoking your aid and generous judgment, I am ready to take the oath prescribed by law and the Constitution and forthwith proceed, with my best ability, guided by a sincere and honest purpose, to discharge the duties belonging to the office with which you have clothed me. [Loud applause.]

Mr. KELLEY, having served longest continuously as a member of the House, administered to the Speaker-elect the oath prescribed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SHOBER, its Acting Secretary, informed the House that a quorum of the Senate had assembled, and that the Senate was ready to proceed to business.

The message further announced that the Senate had appointed a committee to join such committee as might be appointed by the House of Representatives to wait on the President of the United States and inform him that a quorum of each House had assembled, and that Congress was ready to receive any communication he might be pleased to make, and that Mr. ANTHONY and Mr. GARLAND had been appointed such committee on the part of the Senate.

SWEARING IN OF THE MEMBERS.

The Speaker proceeded to administer to the members in attendance the oath of office. The members presented themselves as their names were called by States, and took respectively the test oath pre-

scribed by the act of July 2, 1862, or the special oath provided in the act of July 11, 1868, for those whose disabilities, under the fourteenth article of amendments to the Constitution of the United States, have been removed by a vote of two-thirds of each House of Congress.

When the State of Alabama was called, Mr. JONES, of Texas, said: I object to administering the oath to Mr. WHEELER, who claims to be sworn as a Representative-elect from the State of Alabama, and ask that he stand aside for the present.

The SPEAKER. The gentleman will stand aside for the present. Mr. RANDALL. I understand that the gentleman from Alabama [Mr. WHEELER] has been objected to, and that he has been asked to stand aside.

The SPEAKER. Temporarily.

Mr. RANDALL. It is right we should know the grounds, as far as they can be briefly given, for that proposition.

The SPEAKER. The Chair will state there are conveniences in going forward with the swearing in of members without interruption. The Chair would prefer that the statement of the grounds on which the swearing of any member is objected to should be postponed until those members have been sworn to whom there is no objection.

Mr. RANDALL. In the first session of the Forty-first Congress this question arose, and the then Speaker, by implication, stated that the stepping aside of a member was a voluntary act. I would like to ask the gentleman from Alabama [Mr. WHEELER] who has been objected to whether he voluntarily steps aside?

Mr. HASKELL. I desire to state that I was not present during the Congress to which the honorable gentleman from Pennsylvania [Mr. RANDALL] refers. But during the two Congresses next preceding this one, presided over by the honorable gentleman from Pennsylvania himself, the precise process contemplated now by the Speaker of this House was set forth as the regular usage of the House. I insist that that custom, which has become fixed, and has in it no hardship and debars no member of any right, but facilitates the organization of this House, ought to have sway here to-day, and that, as has been repeatedly done since the organization of the Government, those members who are not objected to shall be sworn in first.

Mr. RANDALL. That was done during the last three Congresses without dissent, and the member objected to stepping aside as a voluntary act. But there was no right established as against the right of a member to be sworn in as all other members are sworn in who bear a certificate from the governor of a State, a Congressman being a State officer, and the governor's certificate being authority as his commission here, both according to the Constitution and the law thereunder. I ask the Clerk to read the remarks of the gentleman from Kentucky [Mr. KNOTT] touching this point in the Forty-first Congress, and the reply made by the then Speaker, (Mr. Blaine.)

The Clerk read as follows:

Mr. KNOTT said: I rise to a point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. KNOTT. My point of order is that the duty devolved upon the Speaker by law is simply to swear in each member as he presents himself for that purpose. It is not for the Speaker to decide whether he can properly take the oath or not. And, secondly, that the House cannot discharge any of its functions, either legislative or quasi judicial, which are conferred upon it by the Constitution, until it is organized. Therefore, there is no power, either in the Speaker or in the House, at present, to exclude a member-elect from taking the oath.

The SPEAKER. The Chair has not assumed to exclude any member-elect from taking the oath. But the gentleman from Maryland, [Mr. Hamill,] in order to relieve the embarrassment of the House, voluntarily withdrew, as he had a right to do, from those who had presented themselves to take the oath. The Clerk will now proceed with the call of members to be sworn in. The members-elect from the Southern States who were authorized by law to take a special oath will please remain in their seats till the other members have been sworn in.

Mr. RANDALL. The Clerk will also be kind enough to read what I have marked on the next page.

The Clerk read as follows:

The SPEAKER. If the gentlemen to whose qualification objection is made voluntarily retire, the qualification of the other members now in front of the desk will proceed by general consent.

Mr. HASKELL. Now, Mr. Speaker, if the gentleman from Pennsylvania has concluded for the present, I will, in verification of the statement I made a moment ago, send to the Clerk's desk to be read a part of the proceedings of the Forty-fifth Congress, wherein the honorable gentleman from Pennsylvania [Mr. RANDALL] presided, and where he, without qualification, as appears in this record, peremptorily ordered the member objected to to stand aside.

The Clerk read as follows:

The Speaker proceeded to administer to the members in attendance the oath of office. The members presented themselves as their names were called by States, and took respectively the "test-oath" prescribed by the act of July 2, 1862, or the special oath provided in the act of July 11, 1868, for those whose disabilities under the fourteenth article of amendments to the Constitution of the United States have been removed by a vote of two-thirds of each House of Congress.

When the State of South Carolina was called.

Mr. COX, of New York, said: In conformity with usage, I ask that two members from South Carolina stand aside for the present.

The SPEAKER. The gentleman will indicate to whom he refers.

Mr. COX, of New York. I ask that Mr. Cain and Mr. Rainey, of South Carolina, (whose cases will be brought up after members have been sworn in, to decide whether they have the *prima-facie* right to a seat upon this floor or not,) stand aside for the present.

The SPEAKER. The gentlemen named will, for the present, stand aside.

When the State of Louisiana was called,

Mr. COX, of New York, said: I ask that Mr. Darrall, of Louisiana, stand aside.

Mr. FRYE. I ask that Mr. J. B. Elam and Mr. E. W. Robertson, of the State of Louisiana, also stand aside.

The SPEAKER. The gentlemen indicated will stand aside for the present.

When the State of California was called,

Mr. SPRINGER said: I object to the swearing in of Mr. Pacheco.

The SPEAKER. The gentleman will stand aside for the present.

Mr. HASKELL. Well, Mr. Speaker, that having been established recently as a precedent of this House by the honorable gentleman from Pennsylvania himself, and as it does no injustice to any man, but greatly facilitates the business of this House, I insist that the ruling of the Chair is eminently proper that the member objected to shall stand aside until those not objected to are sworn in.

Mr. RANDALL. Mr. Speaker, the gentleman from Kansas [Mr. HASKELL] has not, by the reading of the record, borne out his statement upon the floor that the then Speaker did peremptorily ask any member to step aside. On the contrary, it would be a very arbitrary exercise of power for a Speaker peremptorily to tell a member to step aside and prevent him from being sworn. And the record shows that the then Speaker did not ask peremptorily any member to step aside, but that in the absence of an objection from any source he announced to the House that the member objected to would stand aside; but this is a very different case. The gentleman holding the certificate from the governor of the State of Alabama in this instance objects, if I correctly understand his position, to step aside. He thinks that his right to be sworn in is equal in every respect to the right of every other member from Alabama, he and his colleagues coming with the like certificates exactly. And I had hoped that this House, or rather a majority, having so decided, a preponderance would not so soon have engaged in interrupting that equity and fair play which I think should control our proceedings. [Ironical applause from the Republican side.]

Mr. HASKELL. I desire to say just one word in reply to the gentleman from Pennsylvania.

Mr. HENDERSON. Will my friend from Kansas allow me to ask the gentleman from Pennsylvania a question?

Mr. HASKELL. I will, if it does not interfere with my argument.

Mr. HENDERSON. I simply wanted to ask the gentleman from Pennsylvania if it is not exceedingly unkind to compel gentlemen to stand here on the floor until objections can be stated and discussed by members?

Mr. RANDALL. They will have longer to stand on the floor hereafter, I am afraid, than they are taxing their strength in doing now.

Mr. HASKELL. I desire to resume. I stated that from the record there was no indication from the then Speaker of the House that he had allowed the member to exercise any will or discretion at all. The record read from the Clerk's desk does not show that the Speaker asked the gentleman to stand aside unless he seriously objected to doing so. On the contrary, the record just read shows, and my recollection is clear, that his direction to the member to stand aside was positive, and contained no other declaration whatever. But aside from this—

Mr. RANDALL. If—

Mr. HASKELL. The gentleman from Pennsylvania [Mr. RANDALL] will permit me to proceed. He has seen fit to allude to a presumed spirit of intolerance or hostility upon this side of the House. I merely desire to call his attention to the fact that it is a great deal easier, a great deal plainer, a great deal simpler, working no possible injustice to anybody, preserving everybody's rights and all equities, that those members not objected to, who come before this House with no man questioning their rights, should now be sworn in. Why should the honorable gentleman from Pennsylvania cause to step aside all these men not objected to at all, and subject them to the delay and annoyance incident upon the trying of *prima facie* cases, while one or two gentlemen have their cases immediately tried? I claim that the precedent set by the gentleman from Pennsylvania himself, while Speaker of this House, is right, and I insist that the House ought now to sustain that view of the case, having the greatest faith in the parliamentary knowledge and wisdom of the honorable gentleman from Pennsylvania when in the chair.

Mr. HOUSE. Will the gentleman allow me to ask him a question?

Mr. HASKELL. Certainly.

Mr. HOUSE. Does the gentleman from Kansas [Mr. HASKELL] insist that the Speaker of this House, on the objection of any one member, has the power to make any member stand aside?

Mr. HASKELL. No; "the gentleman from Kansas" has asserted nothing of the sort. The "gentleman from Kansas" merely asserts that as the custom of the House, as a mere formality, as a convenient proceeding in accordance with usage and custom, this is the better way, and that the present occupant of the chair has acted wisely.

Mr. HOUSE. That has only been done when the member has been willing to do it.

Mr. HASKELL. I will say to the gentleman from Tennessee [Mr. HOUSE] if he wishes to raise that question of right and power, that in my judgment the Chair has the right and the power to designate the order and the method by which members shall be sworn in, subject, of course, to an appeal to the decision of the House.

Mr. HOUSE. And one member can prevent the whole of this side of the House from being sworn in by raising an objection?

Mr. HASKELL. There is no such intention as that.

Mr. HOUSE. Is that the theory?

Mr. HASKELL. There is no covert purpose in this matter. I have

merely stated the precedents and the usage. There is no intention on this side of the House to do any one injustice, or to take advantage of any one.

Mr. RANDALL. I now ask that the certificate of the gentleman from Alabama [Mr. WHEELER,] be read by the Clerk. After that I will yield to the gentleman from Georgia [Mr. HAMMOND].

Mr. CALKINS. I object.

The SPEAKER. The gentleman will please state the ground of his objection.

Mr. CALKINS. I object to the swearing in of members being interrupted in any such way. The procedure of organizing the House is well understood. This request to have that procedure interrupted by the reading of a certificate is entirely novel, without precedent, and unheard of. For that reason I object.

Mr. RANDALL. The Chair will be kind enough to rule on that.

Mr. CALKINS. If the Speaker will allow me, the question is not whether the gentleman shall be sworn in at all, but it is as to the order in which members shall be sworn in.

The SPEAKER. The Chair is inclined to hold that he has the power to designate the order in which members may be called and sworn in. Unquestionably the Chair has no right to decide upon the title of any member.

Mr. RANDALL. Then, Mr. Speaker—

The SPEAKER. The gentleman will permit the Chair to conclude.

Mr. RANDALL. Excuse me.

The SPEAKER. If any gentleman is objected to, for mere convenience of proceeding the Chair will ask the gentleman objected to to stand aside. He having stood aside, and all others not objected to having been sworn in, the Chair will at once require the roll to be called for those persons who have been objected to and will swear them in, unless there shall be some good reason given upon which the House may act and direct the Chair otherwise.

Mr. RANDALL. If I understand the decision of the Speaker correctly, he rules out the reading at the Clerk's desk of the certificate of the gentleman from Alabama.

The SPEAKER. At this time.

Mr. RANDALL. The Clerk will be kind enough to send me that certificate, and I will read it as a part of my remarks.

In the name and by the authority of the State of Alabama. From the returns made to the office of secretary of State, in pursuance of the law, it appears that Joseph Wheeler has been elected a Representative in the Forty-seventh Congress of the United States from the eighth Congressional district of Alabama. I do therefore, by virtue of the power and authority in me vested, hereby commission the said Joseph Wheeler as a Representative in the Forty-seventh Congress, for and during the time prescribed by the laws regulating the same.

Mr. HASKELL. I rise to a point of order.

Mr. RANDALL. I do not yield.

Mr. HASKELL. I rise to a point of order.

The SPEAKER. The gentleman from Kansas [Mr. HASKELL] rises to a point of order, and will state it.

Mr. HASKELL. I understood the Chair to rule that the certificate was not to be read from the Clerk's desk. I understood the Chair also to rule that he had control of the order by which members are to be sworn in. I object, therefore, to the discussion of a point of order after it has been decided; and I ask that the regular order of business be proceeded with.

Mr. RANDALL. The gentleman has no right to interrupt my speech.

Mr. HASKELL. I call for the regular order.

Mr. RANDALL. This is the regular order. I am on the floor and am reading this document for the information of the House.

The SPEAKER. As the Chair understands, the gentleman from Pennsylvania is now reading the certificate as a part of his remarks, and he is entitled to the floor.

Mr. HASKELL. Has the gentleman from Pennsylvania appealed from the decision of the Chair?

Mr. RANDALL. I have not appealed. I took the floor in my own right.

The SPEAKER. The Chair does not understand that his decision has been appealed from, but the gentleman from Pennsylvania is continuing his remarks.

Mr. HASKELL. If the Chair desires to have the gentleman continue, I will not press my point.

The SPEAKER. The Chair thinks the gentleman from Pennsylvania is entitled to finish the reading if he desires to do so.

Mr. RANDALL, (continuing the reading:)

Joseph Wheeler is therefore hereby authorized and required to do and perform all and singular the duties incumbent on him as a Representative in Congress, as aforesaid, according to law and the trust reposed, and to exercise all the powers and receive all the emoluments to said office appertaining.

Given under my hand and the great seal of the State, at Montgomery, on this the 11th day of November, 1880, and in the one hundred and fifth year of American Independence.

[SEAL.]

By the governor:

W. W. SREWS, Secretary of State.

I now yield to the gentleman from Georgia, [Mr. HAMMOND.]

Mr. ROBESON. I rise to a point of order.

The SPEAKER. The gentleman from New Jersey [Mr. ROBESON] will state his point of order.

Mr. ROBESON. I understood the Speaker of this House to decide that the order of swearing in members was within his power of decision; and I understood him also to declare that he had exercised

R. W. COBB.

his discretion by deciding that the gentleman from Alabama should for the present stand aside.

Now, then, the gentleman from Pennsylvania has concluded his remarks under the courtesy of the Speaker, who tolerates and permits advice upon questions of order. But the decision having been made, I say that the gentleman no longer holds the floor, nor can he yield it to any one. If he desires to appeal from the decision of the Speaker, he has that privilege; but the decision has been made, and if it is questioned I desire to be heard in its behalf; but I desire to be heard only in proper form and according to the rules and practices of parliamentary bodies.

Mr. RANDALL. I do not appeal from the decision of the Chair, if the Chair states distinctly that he has so decided.

The SPEAKER. The Chair has decided as announced; that this is a matter of order wholly within the control of the Chair for the convenience of procedure. The Chair does not decide anything that affects the right of the gentleman from Alabama to be sworn in, except as to the matter of time.

Mr. RANDALL. I understand that the other members are to be sworn in and this question will come up immediately afterward.

The SPEAKER. Immediately after the swearing in of gentlemen to whom there is no objection the names of those who have been objected to will again be called, and they will then be sworn in, unless there is some reason given, sustained by the action of the House, why they should not be sworn in.

Mr. ROBESON. I call for the regular order.

The administration of the oath to members was then proceeded with.

When the State of Iowa was called,

Mr. SPRINGER said: I ask that Mr. CUTTS, of Iowa, stand aside.

The SPEAKER. The gentleman from Iowa will stand aside for the present.

When the State of Louisiana was called,

Mr. VAN VOORHIS said: I ask that Mr. KING, of Louisiana, stand aside.

Mr. KING. I do not elect to stand aside.

The SPEAKER. The gentleman objected to will stand aside for the present. Those to whom there is no objection will be sworn.

When the State of Mississippi was called,

Mr. MOORE said: Mr. Speaker, in the interest of justice, in the interest of common fairness, in the interest of good government and the civilization of the nineteenth century, I respectfully and solemnly protest in the name of the American people against the administration of the oath of office to Hon. JAMES R. CHALMERS as a member of the Forty-seventh Congress from the sixth district of Mississippi.

The SPEAKER. The Chair will treat this as an objection to his being sworn in at this time, and he will stand aside.

When the State of New York was called,

Mr. KING said: I ask that Mr. VAN VOORHIS, of New York, stand aside.

The SPEAKER. Mr. VAN VOORHIS will stand aside for the present.

Mr. SPRINGER. I ask that Mr. WADSWORTH, of New York, stand aside.

The SPEAKER. Mr. WADSWORTH will stand aside for the present.

When the State of South Carolina was called,

Mr. CALKINS said: I ask that Mr. SAMUEL DIBBLE stand aside for the present.

The SPEAKER. The gentleman will stand aside.

When the State of Tennessee was called,

Mr. BRAGG said: In the name of humanity, [laughter,] in the name of the civilization of the nineteenth century, [laughter,] on behalf of the American people who love good order and expect to see a Postmaster-General appointed who will execute the duties of the office to the satisfaction of everybody, even if he cometh from the State of Tennessee, [laughter and applause,] by the memory of my friend, CASEY YOUNG, I do earnestly protest against the taking of the oath by WILLIAM R. MOORE, of Tennessee. [Laughter and applause.]

The SPEAKER. The Chair understands the gentleman from Wisconsin objects to Mr. MOORE being sworn in, and the gentleman from Tennessee will therefore stand aside for the present.

The Clerk of the House announces the roll of members-elect has been called through; and if any gentleman whose name has been omitted, or if any gentleman whose name has been called, but who has not yet been sworn in, there being no objection made, will now come forward, the oath will be administered to him.

Mr. RANDALL. In view of the law should not the Delegates be now sworn?

The SPEAKER. The Delegates might be sworn in properly after the swearing in of members has been finished, although that is a matter in reference to which the Chair has no particular desire.

Mr. TALBOTT. My colleague [Mr. CHAPMAN] has not been sworn in. Mr. CHAPMAN presented himself and was sworn in.

Mr. VAN VOORHIS. I now demand the right to be sworn, unless some one shows a good reason why I should not be sworn in.

Mr. JONES, of Texas. What is the first case?

The SPEAKER. The objection made to swearing in Mr. JOSEPH WHEELER, of Alabama.

Mr. JONES, of Texas. The ground of objection is that Mr. WHEELER has not been duly returned or elected a member of the Forty-seventh Congress. I send to the Clerk's desk the following resolution, which sets forth very clearly the ground of objection, and I ask it be read.

The SPEAKER. Does the gentleman ask that the resolution be read now as a part of his remarks, or does he offer it for the adoption of the House?

Mr. JONES, of Texas. I offer it for the consideration of the House.

Mr. RANDALL. Is that in order?

The SPEAKER. The Chair has not yet heard the resolution.

Mr. HOOKER. I rise to a parliamentary inquiry, and ask what motion is made by the gentleman from Texas?

The SPEAKER. The form of motion is in the resolution, and the Chair is unable to give any other answer to the question until the resolution has been read.

Mr. HOOKER. It is in support of the motion already made?

The SPEAKER. Until the resolution is read the Chair is unable to answer the gentleman's question.

The Clerk read as follows:

Resolved, That the question of the *prima facie* as well as of the final right of Joseph Wheeler and William M. Lowe, contestants, respectively claiming a seat in this House from the eighth district of Alabama, be referred to the Committee on Elections, hereafter to be appointed, and until said committee shall report and the House decide such question neither of said contestants shall be seated.

Mr. RANDALL. I must object to that on the ground there is a single certificate—no contesting certificate whatever.

Mr. JONES, of Texas. I will take care of that. I do not yield.

The SPEAKER. The gentleman from Pennsylvania rises to object to the consideration of the resolution.

Mr. RANDALL. Until members are sworn in in obedience to the thirtieth section of the Revised Statutes, which I ask to have read.

The SPEAKER. The Chair does not understand we are dealing with the merits of the question.

Mr. RANDALL. We are now considering the point of order that the Speaker only has the right to fix the order in which members shall be sworn in.

Mr. JONES, of Texas. Very well. Without offering the resolution, and to meet that objection, I will have it read as part of my remarks.

The SPEAKER. The gentleman from Texas withdraws the resolution from the consideration of the House, and simply wishes to treat it as a part of his remarks.

Mr. JONES, of Texas. Yes, sir.

The SPEAKER. The resolution is not before the House.

Mr. HOUSE. What is before the House?

The SPEAKER. The objection to the swearing in of Mr. WHEELER, of Alabama. The resolution is not before the House for consideration, but is simply read as a part of the remarks of the gentleman from Texas.

Mr. COX, of New York. I rise to a parliamentary question. I inquire whether the Chair decides that pending the swearing in of members he will entertain remarks or resolutions from other members?

The SPEAKER. Debate is in order in considering this question. It may be a matter the House may deal with.

Mr. COX, of New York. How does the point arise?

The SPEAKER. On the objection to swearing in of the member.

Mr. COX, of New York. What form of motion does it take?

The SPEAKER. It has not taken any yet.

Mr. COX, of New York. We are debating a negative, then.

The SPEAKER. It is now in the form of an objection, and we have not reached the other point yet. The gentleman from Texas is stating his objection, and the Chair is not called to rule upon it until it is stated.

Mr. BURROWS, of Michigan. Mr. Speaker, I understand that Mr. WHEELER has a certificate of election, and I would like to have that read.

Mr. JONES, of Texas. I have not yielded the floor for any purpose.

The SPEAKER. The gentleman from Texas has the floor for the purpose of stating his objection to the swearing in of the gentleman from Alabama.

Mr. HOOKER. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. HOOKER. My point of order is this: I understand the ruling of the Speaker to have been, when objection was made in the first instance on the call of the name of the gentleman from Alabama, [Mr. WHEELER,] that he directed, merely ordering what should be the method of procedure, that the gentleman from Alabama should for the time being stand aside, declaring at the same time that when all of the members elected against whose swearing in no objection was made should have been sworn in, that then the cases of the gentleman from Alabama [Mr. WHEELER] and other gentlemen objected to would be taken up and disposed of at once in their order. Now, in pursuance of that order of the Speaker, my point of order is that the House is now proceeding to execute that prior order of the House, and that it is obligatory upon the House and the Speaker before proceeding to any other business to swear in these members-elect who have the *prima facie* case. I therefore make the point of order that with the exception of reading the certificate of election or the certificates of election, if there be a plurality, that there is nothing else in order than the swearing in of these members, because the House has already so ordered; and until that question of swearing in the members is determined who present *prima facie* cases here no other question is in order. As I understand it, the

gentleman from Alabama [Mr. WHEELER] has the certificate of the executive officer of his State, a certificate in due legal form setting forth the fact that he is entitled to the seat for which he holds the certificate of election, and that there is no contesting certificate.

The SPEAKER. The Chair desires to state, in response to the point of order raised by the gentleman from Mississippi, that he is of the opinion that an objection may be made to the swearing in of the gentleman from Alabama by the gentleman from Texas, who is now on the floor, as the Chair understands, for such purpose, and that objection has not yet been heard by the House. When the House has heard this objection, or, if the matter is submitted for the decision of the Chair, the Chair will then decide whether or not it is a matter subject to his disposition, or whether it is a question which should properly go before the House for its action.

Mr. JONES, of Texas. I desire now, Mr. Speaker—

Mr. HOOKER. I respectfully suggest, if the Chair will bear with me for a moment, that it is the right of the member from Alabama and the right of the House to have his certificate of election read.

The SPEAKER. The gentleman from Texas, [Mr. JONES,] as the Chair understands, is proceeding to make objection to the swearing in of the gentleman from Alabama. The Chair desires to hear his objection.

Mr. CALKINS. I ask for the reading of the certificate.

Mr. JONES, of Texas. I object to yielding the floor for any purpose.

The SPEAKER. The Chair holds that the gentleman from Texas [Mr. JONES] is entitled to the floor. He has the right to make his objection in his own way, and the question of reading the certificate can be called up at any time, if desired, after he shall have completed his statement.

Mr. JONES, of Texas. They can have the certificate read, if they desire, after I have concluded.

The objection I have indicated and which I have been trying to make in this case is that Mr. WHEELER was not elected by a majority of the legal votes cast in the district which he claims to have the right to represent here, but that, on the contrary, his competitor, Mr. William M. Lowe, received a majority of the legal votes actually cast, as appears from the official returns in that election, and in support of that protest to the swearing in of the gentleman from Alabama [Mr. WHEELER] at this time—

Mr. HOOKER. Mr. Speaker, I regret to be compelled to interrupt the gentleman from Texas, [Mr. JONES,] but I must rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. HOOKER. It must be now apparent to the Speaker and to the House that the objection on the part of the swearing in of the gentleman from Alabama by the gentleman from Texas now on the floor goes to the merits of the question—is a discussion of the merits of the case itself—and goes to the title of the seat on this floor of the member from Alabama or the contesting member from Alabama. That being the case, the Speaker must observe that it assumes now, upon a proposition to swear in a member—and I take it for granted that there is a concurrent line of authority from the first cases decided, the New Jersey cases and the Tennessee cases, down to the very last one, in support of my objection to this proceeding—to open up the question upon its merits. I hold, sir, that he cannot discuss that question pending the right of the House to proceed to the swearing in of a member, and that pending that question you cannot go into anything but as to the *prima facie* right.

The SPEAKER. The Chair desires to state that the gentleman from Texas is entitled to the floor, and his right in that respect is not subject to the point at this time. He is making an objection, as the Chair understands, to the swearing in of the gentleman from Alabama, and the Chair thinks he has a right to state his objection in his own way. The Chair does not believe, from what has already been said, he can decide the point made by the gentleman from Mississippi as to whether the gentleman from Texas is going beyond the privilege accorded under the rule or not.

Mr. CALKINS. If my friend from Texas will yield to me for one moment, I desire to make a suggestion which I think will meet the approval of the House. Let the certificate of the gentleman from Alabama be read and a motion made to swear him in. Then the objection can be made. That is the line of precedents running for years through such cases as this.

Mr. HOOKER. The view of the gentleman from Indiana, in my judgment, is undoubtedly correct.

Mr. CALKINS. That brings the whole thing in its proper order.

The SPEAKER. The gentleman from Texas is entitled to the floor.

Mr. JONES, of Texas. The case now before us presents itself to the House—if the objection be fully expressed to the House—as a very simple proposition. Mr. WHEELER presents the certificate of the governor of the State of Alabama. The contestant, Mr. Lowe, presents the official returns made by the supervisors of election, from which returns, being the original record of the election, it appears that Mr. Lowe received upward of 400 majority.

Now, the position is this, that it is thus officially shown that the certificate of election offered here by the gentleman from Alabama is not what it purports to be—a *prima facie* certificate. I ask, in support of the objection I make to the swearing in of the gentleman from Alabama, that the return or report of the chief supervisors touching

this election be read, so that the House may be fully advised of the real merits of the point involved; in other words, as to the *prima facie* case.

The objection assumes that the *prima facie* case is against or at variance with the certificate of the governor in that the certificate or certified report of the chief supervisor shows that his competitor, the contestant in this case, received an actual majority of the legal votes cast. I send the paper to the desk to be read.

Mr. HOOKER. I rise to a point of order upon the reading of that paper.

The SPEAKER. The gentleman will state it.

Mr. HOOKER. My point of order is simply this—

Mr. JONES, of Texas. I ask that the paper be read as a part of my remarks.

Mr. HOOKER. My point of order is, that the *prima facie* case being made out by the certificate of the proper official, authorized by law to give the authentication of the election, you cannot go behind that and investigate the question, or the details of the preceding processes. The certificate is at this time the only thing for you to consider where that presents the *prima facie* case, as it does here.

The SPEAKER. The Chair is of opinion that is not strictly a point of order, but that it goes to the question of whether the gentleman is entitled to be sworn in; whether the objection having been made, it is a good one or not. The gentleman from Texas [Mr. JONES] desires to have the certificate of the supervisors read as a part of his remarks.

Mr. HASKELL. Before the Chair decides upon that point I want to make a suggestion in the nature of a point of order.

The SPEAKER. The gentleman from Kansas will state his point of order.

Mr. HASKELL. The order of business in which the House is now engaged is upon the swearing in of a member. Now, if a member objects to the swearing in of another member, and takes the floor when the proper time arrives, he should take it upon a motion or resolution of some kind. The gentleman from Texas [Mr. JONES] has stated the general ground of his objection, and there is nothing before the House. There is no motion, no resolution, concerning the matter. I think, the gentleman having been granted the courtesy of the floor in explanation of his objection, the Chair should rule that he should introduce a resolution to dispose of this case in some way, and so bring something before the House for its consideration.

Mr. JONES, of Texas. That is just what I propose to do after I conclude my remarks.

Mr. COX, of New York. I desire to say one word on the point of order. I think there is no controversy, or ought to be no controversy, in this House as to the due procedure in a case of this kind. Here are credentials read and a *prima facie* case made out, as clear as any case on which any member has ever taken his seat. No motion is made to unseat the member. Only an objection comes in from one quarter. That is all irregular. You never could organize the House by any such mode. What does McCrary say? You, Mr. Speaker, having been a distinguished member of the Committee on Elections, are familiar with Mr. McCrary's book on the American Law of Elections. Mr. McCrary says:

If a party holding the ordinary credentials of an office—

Mr. JONES, of Texas. I believe I have the floor.

The SPEAKER. The gentleman from Texas [Mr. JONES] is entitled to the floor, but the gentleman from New York [Mr. COX] was recognized on the point of order made by the gentleman from Kansas, [Mr. HASKELL,] which has not yet been disposed of. The rights of the gentleman from Texas will be protected.

Mr. COX, of New York. I want to give my friend from Texas the law of the case as laid down by the distinguished gentleman, Mr. McCrary, who was at one time chairman of the Committee on Elections of this House. He was a Republican, not exactly in affiliation with my friend from Texas, but approaching that way in fact, as we know. I read from McCrary's book, page 148:

If the party holding the ordinary credentials of an office can be kept out of the office by the mere institution of a contest the organization of a legislative body, such for example as the House of Representatives of the United States, might be altogether prevented by instituting contests against a majority of the members, or what is more to be apprehended, the relative strength of political parties in such a body might be changed by instituting contests against members of one or the other of such parties. These considerations have made it necessary to adopt and to adhere to the rule that the person holding the ordinary credentials shall be qualified and allowed to act pending a contest, and until a decision can be had on the merits.

And for a strong reason; *a fortiori*, no mere objection—not a contest, but no mere objection—coming from one member at the time of our ordinary proceeding here of swearing in members ought to prevail, so as to disorganize this proceeding.

Mr. ROBESON. Mr. Speaker, it is very important we should proceed in a case like this according to law, and that our first step forward should be from a firm basis. Therefore let us understand the position of this case. By the law of the land the Clerk of the last House makes up the roll of this House as a preliminary body competent to organize itself. When that is done, then by the statute the Speaker is to proceed to swear in the Representatives-elect. How is he to know who are the Representatives-elect? By the certificate of the constituted authorities of the State according to the laws of the

State whose constituted authorities give it. If that certificate is here, properly authenticated by the great seal of the State, according to the laws of the State of Alabama, it can only be questioned in two ways—I mean *prima facie*. The one is that it is a forgery, and the other is that there is some other disqualification of the member offering to be sworn which is not covered by the certificate. But so long as the certificate certifies only to what the law authorizes the governor to certify to, so long it is a *prima facie* case, and commands in my opinion *prima facie* the action of this House, and all other objections *prima facie* are out of order.

Now my sympathies are all one way in this case, but I cannot violate what I feel to be the law of the land and the good order which is necessary to the proper and expeditious organization of this House. [Applause on the Democratic side.]

Mr. RANDALL. If the gentleman from Texas will yield to me for a moment—

Mr. JONES, of Texas. I prefer to retain the floor for the present.

The SPEAKER. The point of order has not been disposed of. The gentleman from Texas [Mr. JONES] is entitled to the floor for the purpose of stating his objection.

Mr. RANDALL. The only point I desire to suggest is that there is no motion before the House, and I desire to make one that shall bring this subject up. That motion is that the gentleman from Alabama [Mr. WHEELER] be now sworn in.

The SPEAKER. The Chair desires to state, in disposing of the point of order made by the gentleman from Kansas, [Mr. HASKELL,] that it seems to be well taken, although the Chair was of the opinion that the gentleman making the objection was entitled to disclose the grounds thereof. Then, if nothing further be done, if no motion be made, no action taken to exclude the gentleman from Alabama from being sworn in, the Chair would proceed to swear him in. The motion of the gentleman from Pennsylvania will be in order if the gentleman from Texas yields the floor for that purpose.

Mr. RANDALL. But I suggest there must be some motion to be discussed.

The SPEAKER. The Chair so holds; but the gentleman from Texas took the floor for the purpose of presenting his objections, and he has been so often interrupted that he has been unable to fully state what those objections are.

Mr. JONES, of Texas. I wish to state my objection and then offer a resolution meeting the demands of the case.

The SPEAKER. Would it not be better first to offer the resolution, or to make some motion?

Mr. RANDALL. If the gentleman from Texas will allow me, I will make the motion I have indicated, and then yield the floor to him to be heard.

Mr. JONES, of Texas. I offer the resolution which I send to the Clerk's desk.

The SPEAKER. The resolution will be read.

The Clerk read as follows:

Resolved, That the question of the *prima facie* as well as the final right of Joseph Wheeler and William M. Lowe, contestants respectively claiming a seat in this House from the eighth district of Alabama, be referred to the Committee on Elections hereafter appointed; and until such committee shall report and the House decide such question neither of said contestants shall be seated.

Mr. HOOKER. I renew my point of order.

Mr. RANDALL. I move to lay that resolution on the table.

Mr. JONES, of Texas. I believe I have the floor, and I ask that the paper I have sent to the Clerk's desk be read.

The SPEAKER. A resolution has been offered and is before the House for consideration, and a motion has been made to lay that resolution on the table, which motion is not debatable.

Mr. CAMP. The gentleman from Texas [Mr. JONES] had not yielded the floor to the gentleman from Pennsylvania [Mr. RANDALL] to make any such motion.

The SPEAKER. The gentleman from Texas did not have the floor to yield after he had presented his resolution until he had resumed it for debate or some other purpose. The Chair thinks the gentleman from Pennsylvania [Mr. RANDALL] is in order in submitting his motion, and that motion not being debatable, the question is upon laying the resolution on the table.

The question was taken; and the motion was agreed to.

Mr. RANDALL moved to reconsider the vote by which the resolution was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. DEZENDORF. I now ask that the credentials of the gentleman from Alabama be read.

The SPEAKER. The credentials have recently been read. The Chair will state, there being no motion before the House, in the absence of instruction he will regard it his duty to proceed to swear in the member.

Mr. WHEELER then came forward, and was qualified by taking the modified oath.

The SPEAKER. The next gentleman objected to will now present himself.

Mr. SPRINGER. I withdraw my objection to the gentleman from Iowa, Mr. CUTTS.

Mr. HISCOCK. I desire to suggest that all the gentlemen be called and sworn in at once, if objections are withdrawn.

The SPEAKER. The suggestion will be acted upon, unless the objections shall be renewed.

Mr. SPRINGER. I also withdraw my objection to the gentleman from New York, Mr. WADSWORTH.

Mr. VAN VOORHIS. I objected to the swearing in of Mr. KING, of Louisiana, solely because there was a contest in his case and in order to put him in the same category with the other gentlemen objected to, and for no other reason. I withdraw my objection.

Mr. KING. And I withdraw my objection to Mr. VAN VOORHIS, of New York, being sworn in. [Laughter.]

Mr. HAMMOND, of Georgia. I desire that the certificate of Mr. VAN VOORHIS, of New York, be read.

The SPEAKER. The Chair might consider it proper to have that certificate read simply for the purpose of determining whether it makes a *prima facie* case.

Mr. HAMMOND, of Georgia. That is my only object in asking to have it read.

The SPEAKER. The Chair would inquire of the gentleman from Georgia [Mr. HAMMOND] if he denies that the certificate makes a *prima facie* case.

Mr. HAMMOND, of Georgia. I do not know anything about it. The gentleman has been objected to as other gentlemen have been objected to. I presume those gentlemen would not have been objected to unless there was some reason for it.

The SPEAKER. If the gentleman from Georgia objects to the swearing in of the gentleman from New York, of course the certificate will be read.

Mr. HAMMOND, of Georgia. I have no objection to that gentleman being sworn in more than another.

The SPEAKER. There is nothing pending before the House. As the Chair understands, there is no objection to swearing in the gentleman from New York.

Mr. HAMMOND, of Georgia. I desire, as I said, to renew the objection for this purpose only.

The SPEAKER. Then there is objection, and the gentleman from New York will stand aside again for the present.

Mr. BROWNE. I desire to have read the certificate of election of J. FLOYD KING. I suppose it is all regular, and that he ought to be sworn in, but I may be mistaken about it.

The SPEAKER. The Chair will regard this as an objection, and the gentleman from Louisiana will stand aside for the present.

Mr. WADSWORTH, Mr. CUTTS, and Mr. MOORE were duly qualified by taking the "test oath."

Mr. HAMMOND, of Georgia. Since renewing the objection which the gentleman from Louisiana had made to the swearing in of the gentleman from New York [Mr. VAN VOORHIS] I have learned a fact as to the form of that certificate which I did not know at the time I made the objection. I now withdraw that objection.

The SPEAKER. The objection to the swearing in of the gentleman from New York is withdrawn.

Mr. BROWNE. I know nothing about the certificate of Mr. KING; I never knew anything about it; I never cared anything about it particularly; and I withdraw the objection to swearing him in.

Mr. VAN VOORHIS was then duly qualified by taking the test oath, and Mr. KING by taking the modified oath.

The SPEAKER. The Clerk will further call the names of members against whom objection was made on the original call.

The Clerk called the name of JAMES R. CHALMERS, of Mississippi.

Mr. MOORE. I renew my objection.

The SPEAKER. The objection already made still stands. The gentleman from Tennessee will please state what action he desires to have taken, based on his objection. For the purpose of facilitating the completion of this business, some motion or resolution ought to be submitted in each of these cases before discussion is entered upon. In the opinion of the Chair that is the proper and ordinary manner of disposing of such questions, and it is also in accordance with the rules of the House. Debate should be predicated upon some specific motion pending before the House.

Mr. MOORE. I move that the credentials of Mr. CHALMERS be referred to the Committee on Elections when appointed, and that until action by the committee he be not sworn in.

Mr. TOWNSHEND, of Illinois. I move to lay that motion on the table.

The SPEAKER. The gentleman from Illinois moves to lay the motion of the gentleman from Tennessee on the table. That motion is not debatable.

Mr. BROWNE. May not the credentials be read for the information of the House? We would like to know the form of the certificate.

The SPEAKER. At a later stage of the proceedings the reading may be in order. At present the motion is to lay on the table the motion of the gentleman from Tennessee, and the motion to lay on the table is not debatable.

Mr. ROBESON addressed the Chair.

The SPEAKER. For what purpose does the gentleman from New Jersey [Mr. ROBESON] rise?

Mr. ROBESON. To make a motion.

The SPEAKER. There is a motion pending.

Mr. COX, of New York. I rise to a point of order. I insist on these credentials being read.

The SPEAKER. The gentleman from New York will withhold the

application to have the credentials read until the House has disposed of the motion of the gentleman from Illinois to lay on the table the motion of the gentleman from Tennessee.

Mr. COX, of New York. Mr. Speaker, these credentials are pertinent to the motion to lay on the table.

The SPEAKER. In the opinion of the Chair the reading of the credentials would be in the nature of debate.

Mr. TOWNSHEND, of Illinois. For the purpose of allowing the credentials to be read, I withdraw my motion to lay on the table.

The SPEAKER. The gentleman from Illinois withdraws the motion to lay the motion of the gentleman from Tennessee on the table.

Mr. TOWNSHEND, of Illinois. Temporarily, Mr. Speaker; simply for the purpose of allowing the credentials to be read.

Mr. MOORE. Now, Mr. Speaker, the only reason—

The SPEAKER. The gentleman from Tennessee is entitled to the floor.

Mr. TOWNSHEND, of Illinois. I qualified my withdrawal of the motion. It was simply for the purpose of allowing the credentials to be read.

Mr. MOORE. I have not yielded the floor.

The SPEAKER. The Chair did not so understand the gentleman from Illinois; nor does the Chair think that the gentleman from Tennessee should be taken from the floor except—

Mr. TOWNSHEND, of Illinois. Then I renew the motion.

Mr. MOORE. I do not yield the floor.

The SPEAKER. The Chair does not think the gentleman from Tennessee yielded the floor after the motion to lay on the table was withdrawn; and he is entitled to recognition.

Mr. TOWNSHEND, of Illinois. I appended a qualification to my withdrawal.

The SPEAKER. If there is any misunderstanding about the matter, the motion to lay on the table may be renewed. The Chair has no disposition to take advantage of any gentleman, and will assume that the gentleman from Illinois withdrew his motion simply for the purpose of having the credentials read.

Mr. TOWNSHEND, of Illinois. I renew the motion.

Mr. MOORE. I decline to yield for any purpose.

The SPEAKER. The question is on the motion of the gentleman from Illinois to lay on the table the motion of the gentleman from Tennessee.

The motion of Mr. TOWNSHEND, of Illinois, was agreed to, and the motion of Mr. MOORE was laid on the table.

Mr. TOWNSHEND, of Illinois. I move that the gentleman from Mississippi be sworn in.

The SPEAKER. It needs no motion. The Chair has not ruled that the credentials or certificate of election of the gentleman could not be called for, but has simply ruled the paper could not be read while the motion to lay on the table was pending before the House.

Mr. BROWNE. I ask that the credentials be read simply to see whether they are regular.

The SPEAKER. The Chair holds, for the purpose of instructing the Chair and the House on the *prima facie* case, the credentials may be read when asked for. The Clerk will therefore now read them.

The Clerk read as follows:

THE STATE OF MISSISSIPPI,
Executive Department.

I, James M. Stone, governor of the State of Mississippi, do hereby certify that at a general election in the State of Mississippi, on the first Tuesday after the first Monday in November, in the year of our Lord one thousand eight hundred and eighty, it being the second day of November, as required by law, James K. Chalmers was duly and constitutionally elected a Representative to the Forty-seventh Congress of the United States of America, to represent the sixth Congressional district of the State of Mississippi, as appears from the official returns now on file in the office of secretary of State.

In testimony whereof, I, J. M. Stone, governor of the State aforesaid, have caused these letters to be made patent and the great seal of the State to be hereunto affixed.

Given under my hand, at the city of Jackson, the 17th day of November, in the year of our Lord one thousand eight hundred and eighty.

[SEAL.]

J. M. STONE.

By the governor:

HENRY C. MYERS, Secretary of State.

Mr. CHALMERS was then sworn in by taking the modified oath.

The SPEAKER. The next case to be considered is that of SAMUEL DIBBLE, of South Carolina.

Mr. CALKINS. I desire to offer a resolution in that case, and also to have the recognition of the Chair to be heard in debate upon the resolution.

The Clerk read as follows:

Whereas on the second day of November, 1880, in conformity to law, an election was held in the second Congressional district of the State of South Carolina for Representative in the Forty-seventh Congress of the United States, at which election there were two candidates, namely, Hon. M. P. O'Connor and Hon. E. W. M. Mackey, voted for; that, as a result of said election, a certificate was issued to Hon. M. P. O'Connor by the secretary of State, bearing the seal of said State, and which is now on file with the Clerk of this House; and

Whereas Hon. E. W. M. Mackey, in conformity with law, served upon Hon. M. P. O'Connor notice of contest, to which the said O'Connor filed his answer; and, in pursuance thereof, testimony was taken and filed with the Clerk of this House, which still remains in his custody; that during the pending of said contest, and before this House could determine it, on the 26th day of April, 1881, Hon. M. P. O'Connor died, and on the 23d day of May, 1881, the governor of the State of South Carolina issued his writ of election to fill the supposed vacancy caused by the death of Hon. M. P. O'Connor; that as a result of said special election the governor and secretary of State of said State issued to Hon. Samuel Dibble a certificate of election to fill said vacancy, under which he now claims a seat on this floor: Now, therefore,

Be it resolved, That the certificate of election presented by Hon. Samuel Dibble,

together with the memorial and protest and all other papers and testimony taken in the case of the contest of E. W. M. Mackey against M. P. O'Connor now on file with the Clerk of this House, be, and the same hereby are, referred to the Committee on Elections, when appointed, with instructions to report it at as early a day as practicable, either as to the *prima facie* right or the final right of said claimants to the seat as the committee shall deem proper, and that neither claimant shall be sworn in till the committee report.

Mr. RANDALL. I desire to reserve the point of order against that, but not to interfere with the gentleman from Indiana addressing the House.

The SPEAKER. The gentleman from Indiana is entitled to the floor.

Mr. CALKINS. There is but one question involved in the case which is now before the House, and that simply is a question of law. As I am informed by those who have been looking the matter up, no other similar case has risen, or there is no report which can be found of any similar case during the existence of the Government.

Before I proceed with my remarks on the point involved, in order to get it squarely before the House, I ask the credentials and certificate from the governor of South Carolina given to Hon. SAMUEL DIBBLE be read in the presence of the House, and for this purpose: It appears, as I claim, upon the face of the certificate plainly that it was issued in pursuance of an election held to fill this vacancy, and therefore the certificate itself brings up the point of law which I wish to submit to the House. I ask that the credentials be read as a part of my remarks.

The Clerk read as follows:

The State of South Carolina, by his Excellency, Johnson Hagood, the governor of the State of South Carolina.

To the honorable the House of Representatives
of the United States of America, Forty-seventh Congress:

Whereas a vacancy in the representation from the State of South Carolina, of the second congressional district thereof, composed of the counties of Charleston, Clarendon, and Orangeburgh, happened by the death, on April 26, A. D. 1881, of Michael P. O'Connor, who, at the general election held November 2, A. D. 1880, was chosen a member of the said House of Representatives for said congressional district; and

Whereas in accordance with the Constitution of the United States, I, on May 23, A. D. 1881, issued a writ of election appointing an election to be holden on June 9, A. D. 1881, to fill such vacancy; and

Whereas the returns show that such election was duly holden, and that at said election Samuel Dibble received the greatest number of votes given at said election:

Now, therefore, I do hereby certify that the said Samuel Dibble has been duly elected a member of the House of Representatives of the United States of America, Forty-seventh Congress, for the second congressional district of the State of South Carolina, composed of the counties of Charleston, Clarendon, and Orangeburgh, to fill the vacancy in the representation from the said State of South Carolina, of the second congressional district thereof, occasioned by the death of the said Michael P. O'Connor.

Given under my hand and the great seal of the State of South Carolina, in Columbia, this twenty-second day of June in the year of our Lord 1881, and in the one hundred and fifth year of the sovereignty and independence of the United States of America.

[SEAL.]

JOHNSON HAGOOD, Governor.

By the governor:

R. M. SIMS, Secretary of State.

Mr. CALKINS. Mr. Speaker, it will be seen the certificate on its face recites the fact—

The SPEAKER. Does the gentleman desire the other certificate read as a part of his remarks, as there are two and only one has been read?

Mr. CALKINS. I understand they are both substantially the same, the single difference being that one is signed by the secretary and the governor, and the other by the secretary.

Mr. EVINS. They are virtually the same; but the certificate of the governor is a little more full.

Mr. CALKINS. And the point that is presented by the certificate, which will suggest itself immediately to the mind of every one who has heard it read, is this: It represents that it was issued in pursuance of an election held to fill a vacancy; and before I proceed further it is proper for me to say that I have no feeling whatever in the matter one way or the other, and am only anxious that the House shall decide the question of law so that it will become a precedent for future guidance in similar cases.

The certificate also recites that the writ of election was issued by the governor of the State of South Carolina in pursuance of the Constitution of the United States. That portion of the Constitution is as follows:

When vacancies happen in the representation from any State the executive authority thereof shall issue writs of election to fill such vacancies.

Now, it is clear that if there was no vacancy the governor of South Carolina, or the governor of any other State, had no jurisdiction or power to issue a writ of election to fill such vacancy when there is none.

The further fact which appears, and which we are all as a court bound to take notice of, is that there was a contest commenced in this House between the then member-elect, Mr. O'Connor, since dead, and E. W. M. Mackey, of the State of South Carolina; and that case has been undetermined and undisposed of and still remains for adjudication by the House. The question therefore presented here is whether the *prima facie* right conceded to have been held by Mr. O'Connor under the certificate of election of November 2, 1880—I say the question is whether the *prima facie* right held by him at the time of his death gave the governor of South Carolina jurisdiction to determine in such way that that determination binds this House; gave him, in other words, jurisdiction to issue a writ of election upon a hypothetical case

not yet determined. That is the question to be determined here; for we all know that this House is the judge of the election, return, and qualifications of its own members.

This case was pending; it has not been disposed of. It has never been determined, and it never could be determined until this House convened; so that the certificate upon its face bears evidence to these facts before the House when the House is brought to consider the *prima facie* case.

As I have already stated, I have been unable to find any authority, any precedent since the organization of the Government, directed to the point here; but I hold in my hand the Law and Practice of Legislative Assemblies, by Mr. Cushing, in which he lays down what I conceive to be principles analogous to the question before the House. On page 197, under the head of Vacancies in the Congress of the United States, he says:

The language being "that when vacancies happen in the representation from any State," the executive thereof shall issue writs of election to fill them, it would seem to follow that where a vacancy is of such a nature that it may be created or exist independently of the House itself, the executive of the State may in all cases take official notice of the vacancy and proceed at once to take the proper measures for filling it; but that where the vacancy is of such a nature that it cannot exist or be created without some act of the House itself, the executive of a State cannot proceed to take measures to fill it until he receives official notice from the House.

Passing by the first and second clauses under this head, we find the following:

485. III. In regard to vacancies which are not created or consummated without some vote or resolution to that effect on the part of the House, although the act or event from which they result happened when Congress was not in session, such vacancies cannot be filled until official notice is given by the House to the executive of the State. Vacancies of this description are those which result from a refusal to qualify, expulsion, adjudication of a controverted election or return, disqualification, or acceptance of a disqualifying office.

Now, by analogy, I submit to the House after stating what my opinion is on the law and as a result of my investigation of the law which bears upon this subject, whether when a case is pending and undetermined, which is not disposed of and cannot be disposed of until the assembling of Congress, whether under such circumstances the governor of a State can make any such case so as to present a *prima facie* right of a member to a seat here until the House has determined the question. I submit that question without further argument upon it for the determination of the lawyers in this House.

Secondly. I call the attention of the House to a peculiar condition of affairs should Mr. DIBBLE be sworn in on his *prima facie* right. Under the statutes of the United States providing for the contesting of elections, certain rules are pointed out by which the contestant and contestee must be governed in such contest. In this case it would happen if Mr. DIBBLE is sworn in that there is no contest as to his seat whatever; no notice of contest has been served upon him, and if the House should decide finally that Mr. Mackey was entitled to a seat under the election of November 2, 1880, the House would be depriving Mr. DIBBLE of a seat in a case to which he was not a party. As I said, no notice whatever has been served upon him. He has not participated in the taking of testimony; he has given no answer to the notice of contest, for none has been served, and he is only here by reason of an independent election. So that if he should now be sworn in and take his seat, and the House shall finally determine that Mr. Mackey had received a majority of votes at the November election of 1880, would that of itself make the seat to be occupied by Mr. DIBBLE vacant? I make the suggestion to the House, because it presents a question which is deserving of careful consideration.

Mr. BELFORD. I would like to ask the gentleman from Indiana a question: whether he believes that the death of the contestee forfeited the right of the contestant, or whether it is not perfectly open for the House to proceed with the original inquiry?

Mr. CALKINS. I will answer the gentleman from Colorado [Mr. BELFORD] by saying that the man who received the most legal votes at the November election was elected to this House and ought to have his seat. If that was Mr. O'Connor, then his death created a vacancy. If that was Mr. Mackey, then Mr. O'Connor's death did not create a vacancy, and there I leave it for this House to determine. Now I submit whether, under this state of facts, it does not behoove the House to take such action, not from a party stand-point but from the stand-point of the law, as to make a precedent for all time to come and stand upon the law whatever it is.

Mr. BROWNE rose.

Mr. CALKINS. Just one moment. I desire to modify my resolution in one particular, and now send it to be read by the Clerk as modified.

The Clerk read as follows:

Resolved. That the certificate of election presented by Hon. Samuel Dibble, together with the memorial and protest and all other papers and testimony taken in the case of the contest of E. W. M. Mackey against M. P. O'Connor, now on file with the Clerk of this House, be, and the same are hereby, referred to the Committee on Elections when appointed, with instructions to report at as early a day as practicable whether any vacancy, as alleged in the certificate, existed, and as to the *prima facie* right or the final right of said claimants to the seat as the committee shall deem proper, and that neither claimant shall be sworn in until the committee report.

Mr. RANDALL. I rise for the purpose, not of interfering with the debate, but to reserve the right to make the point of order against that resolution in so far as it touches the merits of the contest. I do not object to anything that relates to the *prima facie* certificate.

Mr. BROWNE. I shall not occupy the attention of the House be-

yond two or three minutes. The case presented is this, if I am correctly advised by the remarks of my colleague, [Mr. CALKINS:] At the November election of 1880 in the second congressional district of South Carolina there were two candidates for a seat in this House. One, Mr. O'Connor, received the certificate of the executive in due form that he had been elected at that election. Immediately his seat was contested, and that contest was pending in this House and unadjudicated. Subsequently Mr. O'Connor, who received the certificate of the governor, died. The governor by his proclamation declared the existence of a vacancy, and in pursuance thereto an election is held, and a second person, Mr. DIBBLE, was declared to be elected. Now that gentleman brings into this House his certificate in due form reciting the fact that a vacancy existed in that district, that an election was held in conformity to law, and that the person named in the certificate, Mr. DIBBLE, was duly elected. How does this case differ from these other cases of persons holding certificates of election, and whom the House has said had *prima facie* cases?

It is said, in the first place, if it be held that this contestee has a *prima facie* case, that it in some way interferes with the contest between Mackey and O'Connor. It can do no such thing. If the contest of Mackey prevail, then there was no existing vacancy and the *prima facie* case of Mr. DIBBLE is gone, because there was no vacancy authorizing the second election.

But it is assumed that inasmuch as the contestee has had no notice of a contest, therefore it is claimed he cannot be bound by the decision of the original case. That is a mistake. He is bound by the clearest principles of law to take notice of the existing contest between Mackey and O'Connor. It is part of the record. He is compelled to take notice of it; and when a decision is arrived at, he is bound by the adjudication.

It is said also the governor has certified in this case the fact that there was a vacancy occasioned by Mr. O'Connor's death, and that upon that subject we may go behind the certificate. I suppose the law of the State of South Carolina requires the governor to certify the death of a member of Congress when it occurs and the existence of a vacancy. He is bound to call an election to fill the vacancy. It is his duty to ascertain the facts, and it is his duty to put them in his certificate. These acts are as clearly within his jurisdiction as it was to certify to the original election and its results, precisely so. Why? Because he sent only a few months ago his certificate that Mr. P. O'Connor was elected to represent this Congressional district in the Forty-seventh Congress. When he sends his second certificate covering the same Congress, the Forty-seventh Congress, he gives the reason for it, viz, that Mr. O'Connor is dead. His death created the vacancy; and in pursuance of the death and vacancy he had ordered a second election. When the second election was held the governor certifies that Mr. DIBBLE was elected. It was a part of the duty of the executive of South Carolina to ascertain the fact of Mr. O'Connor's death. It was a part of his legal duty to declare the vacancy thus created and to provide for the election of a successor. And when the election took place and Mr. DIBBLE was elected, it was his duty to certify the facts. And in this way precisely this case now stands.

If in the original contest between Mackey and O'Connor Mackey prevails, then Mr. DIBBLE is not a Representative in this Congress, because there was no vacancy. It makes no difference how many votes Mr. DIBBLE received at that election, he could not be elected to a seat in this House because there was no existing vacancy; and in that event Mackey would take his seat. But on this certificate Mr. DIBBLE has as much right to the seat on the *prima facie* case as any other gentleman who has brought his regular certificate here and been admitted. I say to my Republican friends and all others that we cannot afford to establish bad precedents in cases of this kind. I have seen something of the consequences of bad precedents in election cases. So far as I am concerned, I am determined to make a clean record, and consider these questions as judicial ones, and vote according to my conscience and my judgment.

Mr. EVINS. I desire to ask my distinguished friend from Indiana [Mr. CALKINS] whether he means to press this resolution?

Mr. CALKINS. I desire to submit it to the House.

Mr. EVINS. After the eloquent speech of my other friend from Indiana [Mr. BROWNE] who has shown so conclusively the right of my colleague [Mr. DIBBLE] to a seat on this floor on his *prima facie* case, I will not detain the House with the remarks I had intended to make, but will move to lay the resolution on the table.

Mr. CALKINS. Upon the suggestion of some of my friends on this side of the House (and I make the suggestion also to the House) I will ask that the consideration of this resolution be postponed until to-morrow morning.

Many MEMBERS. Oh, no!

Mr. CALKINS. Very well; let it be acted on now.

The question was taken upon the motion to lay the resolution on the table; and it was agreed to.

Mr. EVINS moved to reconsider the vote by which the resolution was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. DIBBLE then presented himself, and was qualified by taking the modified oath.

ORDER OF BUSINESS.

The SPEAKER. The Chair is informed by the Clerk that all the

members present have been sworn in. Under the law, as the Chair understands it, the next business in order will be the election of a Clerk.

Mr. MAGINNIS. I rise to a question of privilege.

The SPEAKER. The gentleman will state it.

Mr. MAGINNIS. It is that the Delegates from the Territories shall now be sworn in.

Mr. ROBESON. I desire to nominate for Clerk of this House—

Mr. SPRINGER. The gentleman from Montana [Mr. MAGINNIS] has raised the question of swearing in the Delegates from the Territories at this time.

The SPEAKER. The next business in order to complete, under the law, the organization of the House is the election of Clerk. The matter of swearing in the Delegates will follow.

Mr. SPRINGER. Is not the swearing in of a member of this House a matter of higher privilege?

The SPEAKER. Under the statute a Delegate from a Territory is not a member.

ELECTION OF CLERK.

Mr. ROBESON. I nominate for Clerk of this House Hon. Edward McPherson, a citizen of Pennsylvania.

The SPEAKER. Further nominations for Clerk are in order.

Mr. HOUSE. I nominate as Clerk of the Forty-seventh Congress George M. Adams, of the State of Kentucky.

Mr. MURCH. I desire to place in nomination Hon. Gilbert De La Matyr, a citizen of Indiana.

The SPEAKER. No further nominations being made, the Clerk will now call the roll of members and each member will vote *viva voce* for the person of his choice for Clerk of this House.

Mr. ROBESON. Are not the tellers required to again take their stations?

The SPEAKER. They are not, as the Chair is informed. The tally will be kept by the old clerks.

Mr. ROBESON. Under the supervision of the Speaker?

The SPEAKER. Certainly.

The roll was then called with the following result:

For Mr. Edward McPherson—148.

Aldrich,	Farwell, Sewell S.	Mason,	Shallenberger,
Anderson,	Fisher,	McClure,	Sherwin,
Barr,	Fulkerson,	McCoid,	Shultz,
Bayne,	George,	McCook,	Skinner,
Belford,	Godshalk,	McKinley,	Smith, A. Herr
Bingham,	Grout,	Miles,	Smith, Dietrich C.
Bowman,	Guenther,	Miller,	Smith, J. Hyatt
Brewer,	Hall,	Moore,	Spaulding,
Briggs,	Hammond, John	Morey,	Spooner,
Browne,	Harmer,	Neal,	Steele,
Buck,	Harris, Benj. W.	Norcross,	Stone,
Burrows, Julius C.	Haskell,	O'Neill,	Strait,
Butterworth,	Hawk,	Orth,	Taylor,
Calkins,	Hazelton,	Pacheco,	Thomas,
Camp,	Heilman,	Page,	Thompson, Wm. G.
Campbell,	Hendersson,	Parker,	Townsend, Amos
Candler,	Hepburn,	Paul,	Tyler,
Cannon,	Hill,	Payson,	Updegraff, J. T.
Carpenter,	Hiscock,	Peele,	Updegraff, Thomas
Caswell,	Horr,	Pierce,	Urner,
Chace,	Houk,	Pettibone,	Valentine,
Cornell,	Hubbell,	Pound,	Van Aernam,
Crapo,	Hubbs,	Prescott,	Van Horn,
Crowley,	Humphrey,	Ranney,	Van Voorhis,
Cullen,	Jacobs,	Ray,	Wadsworth,
Cutts,	Jadwin,	Reed,	Wait,
Darrell,	Jones, Phineas	Rice, John B.	Walker,
Davis, George R.	Jorgensen,	Rice, William W.	Ward,
Dawes,	Joyce,	Rich,	Washburn,
Deering,	Kasson,	Richardson, D. P.	Watson,
De Motte,	Kelley,	Ritchie,	Webber,
Dezendorf,	Ketcham,	Robeson,	West,
Dingley,	Lacey,	Robinson, Geo. D.	White,
Dunnell,	Lewis,	Robinson, James S.	Williams, Chas. G.
Dwight,	Lindsey,	Russell,	Willits,
Errett,	Lord,	Ryan,	Wood, Walter A.
Farwell, Chas. B.	Marsh,	Scranton,	Young,

For Mr. George M. Adams—129.

Aiken,	Clements,	Gibson,	Matson,
Allen,	Cobb,	Gunter,	McKenzie,
Armfield,	Colerick,	Hammond, N. J.	McLane,
Atherton,	Converse,	Hardenbergh,	McMillin,
Atkins,	Cook,	Hardy,	Money,
Barbour,	Cox, Samuel S.	Harris, Henry S.	Morrison,
Beach,	Cox, William R.	Hatch,	Moulton,
Belmont,	Covington,	Herbert,	Muldrow,
Beltzhoover,	Cravens,	Herdon,	Mutchler,
Berry,	Culbertson,	Hewitt, Abram S.	Nolan,
Black,	Curtin,	Hewitt, G. W.	Oates,
Blackburn,	Davidson,	Hoblitzell,	Phelps,
Blanchard,	Davis, Lowndes H.	Hoge,	Phister,
Bland,	Dibble,	Holman,	Randall,
Bliss,	Dibrell,	Hooker,	Reagan,
Blount,	Dowd,	House,	Richardson, Jno. S.
Bragg,	Dugro,	Hutchins,	Robertson,
Buchanan,	Dunn,	Jones, James K.	Robinson, Wm. E.
Buckner,	Ellis,	Kenna,	Rosecrans,
Cabell,	Ermentrout,	King,	Ross,
Caldwell,	Evins,	Klotz,	Seoville,
Carlsle,	Finley,	Knott,	Shackelford,
Cassidy,	Flower,	Latham,	Shelley,
Chalmers,	Forney,	Leedom,	Simonton,
Chapman,	Frost,	Le Fevre,	Singleton, Jas. W.
Clardy,	Garrison,	Manning,	Singleton, Otho R.
Clark,	Geddes,	Martin,	Sparks,

Speer,	Townshend, R. W.	Warner,	Wilson,
Springer,	Tucker,	Wellborn,	Wise, George D.
Stocklager,	Turner, Henry G.	Wheeler,	Wise, Morgan R.
Talbot,	Turner, Oscar	Whitthorne,	
Thompson, P. B.	Upson,	Williams, Thomas	
Tillman,	Vance	Willis,	

For Mr. Gilbert De La Matyr—9.

Brumm,	Haseltine,	Ladd,	Murch,
Burrows, Jos. H.	Jones, George W.	Mosgrove,	Rice, Theron M.
Ford,			

The SPEAKER. The Clerk reports 286 votes cast; 144 necessary to a choice. Of the whole number cast, Mr. McPherson, of Pennsylvania, has received 148 votes; Mr. Adams, of Kentucky, 129; Mr. De La Matyr, of Indiana, 9. Mr. McPherson having received a majority of all the votes, is declared elected Clerk of this House for the Forty-seventh Congress. The oath of office will now be administered to him.

Mr. McPHERSON presented himself at the Clerk's desk and was duly qualified.

ELECTION OF OTHER OFFICERS.

Mr. ROBESON. The House being now organized by the election of a Speaker and a Clerk, I offer the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That George W. Hooker, of the State of Vermont, be, and he is hereby, elected Sergeant-at-Arms of the House of Representatives of the Forty-seventh Congress; that Walter P. Brownlow, of the State of Tennessee, be, and he is hereby, elected Doorkeeper of the House of Representatives of the Forty-seventh Congress; that Henry Sherwood, of the State of Michigan, be, and he is hereby, elected Postmaster of the House of Representatives of the Forty-seventh Congress; and that Rev. Fred. D. Power, of the State of Virginia, be, and he is hereby, elected Chaplain of the House of Representatives of the Forty-seventh Congress.

Mr. SPRINGER. If the gentleman from New Jersey [Mr. ROBESON] will withdraw the name proposed for Chaplain, I will make no objection to the consideration of the resolution at this time. [Cries of "No," "No."]

The SPEAKER. Does the gentleman from New Jersey modify his resolution?

Mr. ROBESON. Inasmuch as the gentleman from Illinois has the right to demand a division of the question, if he makes that point and insists upon it, I must submit. If he does not insist upon it, I decline to modify the resolution.

The SPEAKER. The Chair does not understand that a division is insisted upon.

Mr. ROBESON. Mr. Speaker, I retain the floor; but I will yield to any gentleman who desires to move an amendment for the insertion of any other names. I yield for that purpose to the gentleman from Tennessee, [Mr. HOUSE.]

Mr. HOUSE. Is the division called for by the gentleman from Illinois still insisted upon?

The SPEAKER. The Chair understands it is not.

Mr. SPRINGER. It is; I have not withdrawn the demand.

Mr. HOUSE. That call for a division relates only to the last name in the resolution?

The SPEAKER. Does the Chair understand that the resolution is to be modified?

Mr. ROBESON. The gentleman is entitled to a division?

The SPEAKER. The Chair is of that opinion.

Mr. ROBESON. Then I am constrained for the present to submit to the division.

Mr. CANNON. I desire that there may be no misunderstanding. I understand that the gentleman has a right to a division of the question.

The SPEAKER. The Chair is of that opinion.

Mr. CANNON. And in accordance with that right the division is made.

The SPEAKER. The Chair is of opinion that a division of the question may be had on a resolution of this kind, and he desires to know the extent of the division which is asked. Is a division insisted upon in regard to every substantive proposition in the resolution?

Mr. SPRINGER. Only upon that one office.

Mr. HOUSE. As the gentleman from Illinois [Mr. SPRINGER] makes objection upon the nomination proposed for Chaplain, I suggest to the gentleman from New Jersey that if he will withdraw from his resolution that nomination we can then have a vote on the resolution.

Mr. ROBESON. I submit to the division, which the gentleman has a right to demand. A vote can be taken on the three officers exclusive of Chaplain, and that question can be decided afterward.

Mr. HOUSE. Then I desire to offer the amendment which I send to the Clerk's desk.

The SPEAKER. The gentleman from Tennessee [Mr. HOUSE] offers an amendment, which the Clerk will read. As the Chair understands, it is in the nature of a substitute.

The Clerk read as follows:

For Sergeant-at-Arms, strike out the name of "George W. Hooker, of the State of Vermont," and insert the name of "John G. Thompson, of Ohio;" for Doorkeeper, strike out the name of "Walter P. Brownlow, of the State of Tennessee," and insert the name of "C. W. Field, of Georgia;" for Postmaster, strike out the name of "Henry Sherwood, of the State of Michigan," and insert the name of "A. W. C. Nowlin, of Virginia."

Mr. MURCH. I desire to offer an amendment to the substitute.
Mr. ROBESON. I yield to the gentleman from Maine [Mr. MURCH] for that purpose.

Mr. MURCH. I move to substitute the names that I send to the desk.

The Clerk read as follows:

For Sergeant-at-Arms, Lee Crandall, of Washington, D. C.; for Doorkeeper, H. Martin Williams, of Missouri; for Postmaster, W. C. More, of Pennsylvania.

The question being taken on the amendment of Mr. MURCH, it was not agreed to.

The question then recurred on the amendment of Mr. HOUSE.

Mr. TUCKER. Upon the amendment of the gentleman from Tennessee to the resolution of the gentleman from New Jersey, I ask the yeas and nays.

The question being taken on ordering the yeas and nays, there were yeas 37.

The SPEAKER. The vote in favor of ordering the yeas and nays is not one-fifth of the last vote. In the opinion of the Chair the yeas and nays are refused.

Mr. SPRINGER. I call for tellers on ordering the yeas and nays.

Tellers were ordered.

Mr. TUCKER and Mr. ROBESON were appointed tellers.

The House divided; and before the vote was completed Mr. ROBESON withdrew the demand for a further count.

The SPEAKER. No further count being demanded, and a sufficient number having voted in the affirmative, the yeas and nays are ordered, and the Clerk will call the roll.

The question was taken; and there were—yeas 123, nays 157, not voting 12; as follows:

YEAS—123.

Aiken,	Cravens,	Holman,	Robinson, Wm. E.
Armfield,	Curtin,	Hooker,	Ross,
Atherton,	Davidson,	House,	Scoville,
Atkins,	Davis, Lowndes H.	Hutchins,	Shackelford,
Belmont,	Dibble,	Jones, James K.	Shelley,
Beltzhoover,	Dibrell,	Kenna,	Simonton,
Berry,	Dowd,	King,	Singleton, Jas. W.
Black,	Dugro,	Klotz,	Singleton, Otho R.
Blackburn,	Dunn,	Knott,	Sparks,
Blanchard,	Ellis,	Ladd,	Speer,
Bland,	Ermentrout,	Latham,	Springer,
Bliss,	Evins,	Leedom,	Stockslager,
Blount,	Finley,	Le Fevre,	Talbot,
Bragg,	Flower,	Manning,	Thompson, P. B.
Buchanan,	Forney,	Martin,	Tillman,
Buckner,	Frost,	Matson,	Townsend, R. W.
Cabell,	Garrison,	McKenzie,	Tucker,
Caldwell,	Geddes,	McLane,	Turner, Henry G.
Carlisle,	Gibson,	McMillin,	Turner, Oscar
Cassidy,	Gunter,	Money,	Upson,
Chalmers,	Hammond, N. J.	Morrison,	Vance,
Chapman,	Hardenbergh,	Moulton,	Warner,
Clardy,	Hardy,	Muldrow,	Wellborn,
Clark,	Harris, Henry S.	Mutcher,	Wheeler,
Clements,	Hatch,	Nolan,	Whithorne,
Cobb,	Herbert,	Phelps,	Williams, Thomas
Colerick,	Herndon,	Phister,	Willis,
Converse,	Hewitt, Abram S.	Randall,	Wilson,
Cook,	Hewitt, G. W.	Reagan,	Wise, George D.
Cox, Samuel S.	Hobitzell,	Richardson, Jno. S.	Wise, Morgan R.
Cox, William R.	Hoge,	Robertson,	

NAYS—157.

Aldrich,	Farwell, Sewell S.	Mason,	Shallenberger,
Anderson,	Fisher,	McClure,	Sherwin,
Barr,	Ford,	McCoid,	Shultz,
Bayne,	Fulkerson,	McCook,	Skinner,
Beach,	George,	McKinley,	Smith, A. Herr
Belford,	Godshalk,	Miles,	Smith, Dietrich C.
Bingham,	Grout,	Miller,	Smith, J. Hyatt
Bowman,	Guenther,	Moore,	Spaulding,
Brewer,	Hall,	Morey,	Speoner,
Briggs,	Hammond, John	Mosgrove,	Steele,
Brown,	Harmer,	Murch,	Stone,
Brumm,	Harris, Benj. W.	Neal,	Strait,
Buck,	Haseltine,	Norcross,	Taylor,
Burrows, Julius C.	Haskell,	O'Neill,	Thomas,
Burrows, Jos. H.	Hawk,	Orth,	Thompson, Wm. G.
Butterworth,	Hazelton,	Pacheco,	Townsend, Amos
Calkins,	Heilman,	Page,	Tyler,
Camp,	Henderson,	Parker,	Updegraff, J. T.
Campbell,	Hepburn,	Paul,	Updegraff, Thomas
Candler,	Hill,	Payson,	Urner,
Cannon,	Hiscock,	Peelle,	Valentine,
Carpenter,	Horr,	Pierce,	Van Aernam,
Caswell,	Houk,	Pettibone,	Van Horn,
Chace,	Hubbell,	Pound,	Van Voorhis,
Cornell,	Hubbs,	Prescott,	Wadsworth,
Crapo,	Humphrey,	Ranney,	Wait,
Crowley,	Jacobs,	Ray,	Walker,
Cullen,	Jadwin,	Reed,	Ward,
Cutts,	Jones, George W.	Rice, John B.	Washburn,
Darrell,	Jones, Phineas	Rice, Theron M.	Watson,
Davis, George R.	Jorgensen,	Rice, William W.	Webber,
Dawes,	Joyce,	Rich,	West,
Deering,	Kasson,	Richardson, D. P.	White,
De Motte,	Kelley,	Ritchie,	Williams, Chas. G.
Dezendorf,	Ketcham,	Robeson,	Willits,
Dingley,	Lacey,	Robinson, Geo. D.	Wood, Walter A.
Dunnell,	Lewis,	Robinson, James S.	Young,
Dwight,	Lindsey,	Russell,	
Errett,	Lord,	Ryan,	
Farwell, Chas. B.	Marsh,	Scranton,	

NOT VOTING—12.

Allen,	Culberson,	Morse,	Scales,
Barbour,	Deuster,	Oates,	Stephens,
Covington,	Mills,	Rosecrans,	Wood, Benjamin.

So the amendment was rejected.

Mr. ROBESON. The question now is on the first division of the original proposition.

The resolution was adopted.

Mr. HISCOCK. Have both the amendments been voted upon?

The SPEAKER. Yes; both: have been voted upon and both have been voted down.

Mr. ROBESON. And the original resolution adopted?

The SPEAKER. Yes.

Mr. ROBESON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The officers just elected, if present, will now be sworn in.

Mr. ROBESON. Mr. Speaker, the next question, I suppose, comes up on that portion of the motion which relates to the election of a Chaplain.

The SPEAKER. If the gentleman from New Jersey will delay a moment we will swear in the officers who have just been elected, if they are present.

The officers just elected, Mr. HOOKER, Mr. BROWNLOW, and Mr. SHERWOOD, having presented themselves at the Speaker's desk, were duly qualified, all of them taking the test oath.

ORDER OF BUSINESS.

Mr. SPRINGER. As it is after five o'clock, I move that the House do now adjourn.

Mr. ROBESON. I move the second division of the resolution as divided.

Mr. HISCOCK. I wish the gentleman to yield to me for a moment. I wish to present a resolution which should be acted upon at this time.

Mr. SPRINGER. I yield for that purpose.

Mr. ROBESON. I believe I have the floor, and I will yield to the gentleman from New York.

Mr. HISCOCK. I offer the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That a committee of three be appointed on the part of the House to join the committee appointed on the part of the Senate to wait on the President of the United States and inform him that a quorum of the two Houses has assembled and that Congress is ready to receive any communication he may be pleased to make.

The resolution was adopted.

Mr. SPRINGER. I now move that the House adjourn.

Mr. ROBESON. As there seems to be a disposition to move an adjournment, I think it better to provide for that contingency first, and therefore I move that when the House adjourns it adjourn to meet at twelve o'clock to-morrow.

Mr. TOWNSEND, of Illinois. It does so under the rules.

Mr. COX, of New York. The usual motion, I will say to the gentleman from New Jersey, is to add to his resolution "until further ordered."

The SPEAKER. The motion of the gentleman from New Jersey is that when the House adjourns it adjourn to meet at twelve o'clock to-morrow.

The motion was agreed to.

Mr. ROBESON. And until further ordered. I desire to add that.

Mr. SPRINGER. There is no objection.

The SPEAKER. There being no objection, the modification will be appended as a part of the resolution.

Mr. ROBESON. I yield now to the gentleman from Michigan, [Mr. BURROWS.]

Mr. BURROWS, of Michigan. I offer the following resolution:

Resolved, That a message be sent to the Senate informing that body that a quorum of the House of Representatives has assembled, and that J. WARREN KEIFER, a Representative from the State of Ohio, has been chosen Speaker, and EDWARD MCPHERSON, a citizen of the State of Pennsylvania, Clerk, and that the House is now ready to proceed to business.

The resolution was adopted.

Mr. SPRINGER. I now move that the House adjourn.

The SPEAKER. The gentleman from New Jersey has the floor.

Mr. SPRINGER. That motion is in order at any time.

Mr. ROBESON. Not while I have the floor, Mr. Speaker. I don't yield to any one except it be some motion that takes me off my feet.

Mr. SPRINGER. The motion to adjourn will do that.

The SPEAKER. The Chair will first appoint the committee under the resolution just adopted.

Mr. SPRINGER. I have no objection to forming the committee if the motion to adjourn is considered pending.

Mr. ROBESON. The Chair, I suppose, will announce the committee before the adjournment.

The SPEAKER. The Chair proposes to do so.

Mr. ROBESON. I move the House do now proceed to the consideration of the second division of my resolution.

The SPEAKER. The House now reaches that as a matter of course.

Mr. SPRINGER. Pending that, I move the House do now adjourn.

COMMITTEE TO WAIT ON THE PRESIDENT.

The SPEAKER. Before putting the question on the motion to adjourn the Chair appoints as the committee to join the committee on the part of the Senate to wait on the President Mr. HISCOCK of New York, Mr. ORTH of Indiana, and Mr. REAGAN of Texas.

ORDER OF BUSINESS.

The question being taken on the motion to adjourn, there were ayes 60, noes not counted.

So (further count not being called for) the House refused to adjourn.

ELECTION OF CHAPLAIN.

The SPEAKER. The question is on the second division of the resolution of the gentleman from New Jersey, [Mr. ROBESON.] It will be again reported.

The Clerk read as follows:

Resolved, That Rev. Frederick D. Power, of the State of Virginia, be elected Chaplain of the House of Representatives of the Forty-seventh Congress.

Mr. HOUSE. I move to amend the resolution by striking out the name of Rev. Frederick D. Power, of Virginia, and inserting in lieu thereof the name of Rev. W. P. Harrison, of Georgia.

Mr. MURCH. And I offer as a substitute to amend the resolution by striking out the name of Rev. Frederick D. Power, of Virginia, and inserting the name of Rev. P. P. Ingalls, of Iowa.

The question being taken on Mr. MURCH's amendment, it was not agreed to.

The question recurred on Mr. HOUSE's amendment; and there were—ayes 97, noes 119.

So the amendment was not agreed to.

The resolution was then adopted.

Mr. ROBESON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Rev. FREDERICK D. POWER appeared and qualified by taking the oath prescribed by section 1756 of the Revised Statutes.

ORDER OF BUSINESS.

Mr. ROBESON. I yield to the gentleman from Kansas, [Mr. HASKELL.]

The SPEAKER. The Chair recognizes the gentleman from Kansas.

Mr. SPRINGER. I move that the House do now adjourn.

Mr. ATKINS. I desire to make a parliamentary inquiry. By what right does the gentleman from New Jersey [Mr. ROBESON] occupy the floor?

The SPEAKER. The Chair recognized the gentleman from Kansas before the motion to adjourn was made by the gentleman from Illinois.

Mr. ATKINS. I wish to know by what right the gentleman from New Jersey holds the floor and farms it out.

Mr. ROBESON. By my right to hold the floor when recognized by the Speaker.

Mr. ATKINS. The gentleman was not recognized by the Speaker.

The SPEAKER. The Chair has recognized the gentleman from Kansas [Mr. HASKELL] in his own right.

RULES OF THE HOUSE.

Mr. HASKELL. I offer the resolution which I send to the desk, and upon it I ask the previous question.

The Clerk read as follows:

Resolved, That the rules of the House of Representatives of the Forty-sixth Congress shall be the rules of the present House until otherwise ordered; and

Resolved further, That the Committee on Rules when appointed shall have leave to report at any time all such amendments or revisions of said rules as they may deem proper.

Mr. RANDALL. Under the rules that resolution would lie over for one day.

Mr. FROST. I make the point of order we have no rules. This House is at this time without rules.

Mr. SPRINGER. As this is a very important subject, I move that the House do now adjourn.

Mr. HASKELL. I will say to the gentleman from Pennsylvania [Mr. RANDALL] that this motion does not require to lie over. It is the original motion for the adoption of the rules, and is entirely in order; and the previous question has been asked for. But if there is to be any discussion, or if there be any desire on the part of gentlemen to examine the resolution more fully, or to modify it, I am willing to yield for a motion to adjourn, and let this come up tomorrow as unfinished business.

Mr. RANDALL. I desire to call the attention of the gentleman from Kansas to the last rule, and also to Rule XXVIII. The last rule declares:

These rules shall be the rules of the House of Representatives of the present and succeeding Congresses, unless otherwise ordered.

Those who were in the last House will remember the discussion which took place on that point. I also direct attention to Rule XXVIII.

No rule or order of the House shall be rescinded or changed without one day's notice of the motion therefor.

I make that point in the abundance of safety, as to what is in the

resolution itself and how far it goes in giving the opportunity of changing it.

The SPEAKER. The Chair does not understand this resolution is to change the rules of the House. He understands the object is to make them applicable to the present House.

Mr. RANDALL. The rules do not give the right to the Committee on Rules to report at any time. The resolution therefore in this respect does propose to change the rules.

Mr. FROST. I rise to a parliamentary inquiry. Is the original resolution with my point of order now pending?

The SPEAKER. The resolution was offered by the gentleman from Kansas, who has demanded the previous question.

Mr. FROST. It was as to the right of the gentleman from Kansas to demand the previous question that I claimed the floor.

The SPEAKER. Does the gentleman from Missouri make the point of order that the gentleman from Kansas has not the right to demand the previous question?

Mr. FROST. I do. We have a right to be heard on this before the previous question is ordered.

Mr. RYAN. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at five o'clock and twenty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and other papers were laid on the Clerk's desk, under the rule, and referred to the committees therein named, when appointed, as follows:

By Mr. ERRETT: The petition of the Ohio River commission, asking an appropriation for the completion of Davis Island dam, near Pittsburgh, Pennsylvania—to the Committee on Commerce.

Also, the petition of James Millingar, for compensation for property occupied by United States troops in Tennessee during the late war—to the Committee on War Claims.

Also, resolutions of the Fort Duquesne Land League, Pittsburgh, Pennsylvania, in relation to the imprisonment of Michael P. Boyton and other citizens of the United States by the English authorities—to the Committee on Foreign Affairs.

By Mr. SINGLETON, of Mississippi: The petition of S. F. Owen and others, for legislation regulating interstate commerce—to the Committee on Commerce.

By Mr. TUCKER: The petition of William D. Martin, to be refunded certain taxes illegally assessed and collected from him—to the Committee on Ways and Means.

Also, the petition of Folkes & Winston and others, for compensation for property taken and destroyed by United States forces during the late war—to the Committee on War Claims.

Also, two petitions of citizens of Lynchburgh, Virginia, for the repeal of the tax on national banks—to the Committee on Ways and Means.

Also, the petition of Charles W. Button, for compensation for advertising for United States revenue officials—to the Committee on Claims.

Also, the petition of William Ridgway and others, to be allowed the pay due to Hon. Robert Ridgway, elected as a Representative from Virginia to the House of Representatives—to the Committee on Claims.

SENATE.

TUESDAY, December 6, 1881.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

SAMUEL J. R. McMILLAN, a Senator from the State of Minnesota, appeared in his seat to-day.

The Journal of yesterday's proceedings was read and approved.

MESSAGE FROM THE HOUSE.

Mr. McPHERSON, the Clerk of the House of Representatives, appeared below the bar of the Senate and said:

Mr. President, I am directed by the House of Representatives to inform the Senate that a quorum of the House has assembled, and that J. WARREN KEIFER, a Representative from the State of Ohio, has been chosen Speaker, and EDWARD MCPHERSON, a citizen of the State of Pennsylvania, Clerk; and that the House is now ready to proceed to business.

I am further directed to inform the Senate that the House has appointed FRANK HISCOCK of New York, GODLOVE S. ORTH of Indiana, and JOHN H. REAGAN of Texas, a committee on the part of the House, to join such committee as may be appointed on the part of the Senate, to wait upon the President of the United States and inform him that a quorum of the two Houses has assembled and that Congress is ready to receive any communication he may be pleased to make.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a petition and resolutions of citizens of Spink County, Dakota Territory, in favor of the admission of Dakota as a State; which were laid on the table, to be referred to the Committee on Territories when appointed.